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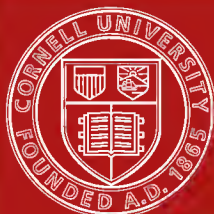
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THE
AGRICULTURAL HOLDINGS ACT, 1906.

*With an introduction thereto, and comments thereon, together with a
summary of the law relating to agricultural holdings under
the Agricultural Holdings Acts, 1883-1900.*

BY
GEORGE ARTHUR JOHNSTON,
ESQ.
Of the Inner Temple and the Western Circuit, Barrister-at-Law.

SECOND EDITION:

REVISED AND ENLARGED.

LONDON:
EFFINGHAM WILSON,
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1908.

THE AGRICULTURAL HOLDINGS ACT, 1906.

BY

G. A. JOHNSTON,

Of the Inner Temple and the Western Circuit, Barrister-at-Law.

SOME OPINIONS OF THE PRESS.

“Mr. JOHNSTON’S edition of this new and important Act is well worth reading by all interested in land, and it will give them much food for reflection, especially if they happen to be landlords He points out the important changes made by the Act all in favour of the tenant, and the serious consequences to landlords which may result from these changes. He does not, however, rest satisfied with simple warning, but suggests means which may possibly in some cases in some measure protect the landlords One of the most threatening provisions is that which gives the tenant compensation for the termination of his tenancy by the landlord or his refusal to renew it “without good and sufficient cause, and for reasons inconsistent with good estate management.” What a specimen of drafting! Mr. JOHNSTON suggests two methods of protection against the dangers created by this vague and difficult provision.”—*Law Magazine and Review*.

“The writer has handled his theme with care and ability, and has done much to reduce to intelligible and legal English many of the crude and vague provisions to which we have referred Landlords and land agents cannot do better than peruse Mr. JOHNSTON’S analysis of the various sections in order to forewarn and forearm themselves for the contingencies of the somewhat far future. It will not be safe to let the matter slide and remain in abeyance unstudied until the year of reckoning shall have arrived. All these threatened changes are dealt with lucidly and concisely by Mr. JOHNSTON, and we can commend perusal of his handy volume . . . to all who own or manage estates, as also to both branches of the legal profession.”—*The Field*.

“Anyone interested in this very crudely drafted measure will find this compact little book useful.”—*County Council and Agricultural Record*.

“Mr. GEORGE A. JOHNSTON, Barrister of the Inner Temple and the Western Circuit, has just completed a useful and timely book entitled “The Agricultural Holdings Act, 1906.” Mr. JOHNSTON has brought into view the alterations in the law of landlord and tenant effected by the Act, and offers a few comments and suggestions thereon that should be of practical value.”—*Agricultural Gazette*.

PREFACE TO THE SECOND EDITION.

The first edition of this book has been very favourably received, and is already exhausted, and it is hoped that the second edition now published will merit and receive equally kind support.

The Small Holdings and Allotments Act, 1907, which was placed upon the Statute Book on the 28th of August last, marks a fresh step in a course of land legislation which requires the most careful attention. Although it has been necessary to make a few allusions herein to this Act, its very important provisions are not generally dealt with, but must form the subject of a separate volume.

I am told that some anxiety has been caused amongst certain valuers by reason of the provision in the Agricultural Holdings Act, 1906, relating to arbitration by a single arbitrator: arbitration, however, must be distinguished from valuation, and I have accordingly added a note upon this subject.

This edition has been revised and has also been somewhat enlarged by the inclusion in the Appendix of the Board of Agriculture and County Court Rules and Forms under the Agricultural Holdings Acts.

GEORGE A. JOHNSTON.

Albion Chambers,

Bristol,

November, 1907.

PREFACE.

The Agricultural Holdings Act, 1906, is short, but its provisions are so exceedingly important that no landowner can afford to ignore them ; and all those who are connected with, or interested in, land which is used for agricultural or market gardening purposes, will do well to make a careful study of this Act.

Although, for the sake of easy reference, a short summary of the law under the Agricultural Holdings Acts, 1883-1900 is given in Part I hereof, it is not within the scope or intention of this little book to deal with those Acts in an exhaustive manner, or to unduly trespass upon the ground that has already been so ably covered by several well-known writers.

It is neither within the province of a treatise of this nature to offer any criticism on that policy which strives to create a dual ownership in land, nor to consider whether the Agricultural Holdings Act, 1906 (which is dealt with in Parts II and III hereof) is intended, or likely, to prove to be in the best interests of either landlord or tenant—whether, indeed, it is of such a character as to afford the relief claimed by agricultural tenants in a time of agricultural depression.

My object is to bring the alterations in the law of landlord and tenant effected by this Act, to the prominent notice of those who are most concerned therein, and to offer a few comments and suggestions thereon, which, I hope, will not be without some practical value.

The yeoman farmer of England has been truly said to be the backbone of this country. For farmers, as a class, I have the greatest respect and regard, and I should sincerely regret if any of the comments or suggestions which I put forward should be deemed to show any bias in favour of the landlord to the prejudice of the tenant. Such comments or suggestions are not due to any such bias, but are merely occasioned by the character of the provisions of this Act.

GEORGE A. JOHNSTON.

2, New Square,

Lincoln's Inn, W.C.

April, 1907.

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Ground Game (Amendment) Act, 1906	6 Edw. 7. c. 21.
Agricultural Holdings Act, 1906	6 Edw. 7 c. 56.
Workmen's Compensation Act, 1906	6 Edw. 7 c. 58.
Small Holdings & Allotments Act, 1907	7 Edw. 7 c. 54.

PART I.

THE AGRICULTURAL HOLDINGS ACTS, 1883-1900.

A SHORT SUMMARY OF THE LAW THEREUNDER.

The law of landlord and tenant has been considerably modified in the cases to which these Acts refer.

The Agricultural Holdings Act, 1883, defines a holding to which the Act applies, as one which is :—

Holdings to which the Acts apply.

- (1) Wholly agricultural, or
- (2) Wholly pastoral, or
- (3) In part agricultural, and as to the residue pastoral, or
- (4) Wholly or in part cultivated as a market garden.

But the Act does not apply to any holding let to the tenant during his continuance in any office, appointment, or employment held under the landlord. ^(a)

From the interpretations given by the Act to the terms “contract of tenancy” and “tenant” ^(b) it would appear that the land must be held :—

- (1) For a term of years, or
- (2) For lives, or

(a) 46 & 47 Vict. c. 61, ss. 54, 61.

(b) 46 & 47 Vict. c. 61, s. 61.

(3) For lives and years, or

(4) From year to year.

But it is a matter of doubt whether a tenancy for a less period than from year to year comes within the operation of the Acts. This point is discussed hereafter in the comments on Section 4, of the Agricultural Holdings Act, 1906.

The Allotments and Cottage Gardens Compensation for Crops Act, 1887, defines an "Allotment" as any parcel of land of not more than two acres in extent, held by a tenant under a landlord, and cultivated as a garden or as a farm, or partly as a garden and partly as a farm; and it defines a "Cottage Garden" as an allotment attached to a cottage.

In this Act "contract of tenancy" includes the letting of land for any term.^(a)

It has been held that a piece of land—less than two acres in extent, occupied by a seedsman for the purposes of his business, and having in it vegetables, fruit trees, and flowering shrubs which he sold—was not cultivated as a garden, and therefore was not an allotment within the definition contained in Section 4 of this Act.^(b)

It should be noted that this Act is not included in the designation The Agricultural Holdings (England) Acts, 1883 to 1900.^(c)

By Section 7 (3) of the Allotments Act, 1887, it was provided that one person should not hold any allotment or allotments acquired under that Act exceeding one acre in extent, but by Section 21 (1) of the Small Holdings & Allotments Act, 1907, five acres is substituted for one acre, with the proviso that the duty of a Council under the Allotments

(a) 50 & 51 Vict. c. 26, s. 4.

(b) *Cooper v. Pearse*, 1896, 1 Q.B. 562.

(c) cf. 63 & 64 Vict. c. 50. s. 14 (2), 6 Edw. 7. c. 56. s. 10.

Acts, as amended by the Act of 1907, to provide allotments is not to include the duty of providing allotments exceeding one acre in extent, and with the further proviso that any part of the land acquired by a Council, under the said Acts, which exceeds five acres, may be adapted for letting and let as an allotment if the County Council are satisfied that this is a desirable and convenient course and consent thereto.

It may be asked whether a cottage and garden—of such a character as is usual in an agricultural district—constitute a holding within the meaning of the Agricultural Holdings Acts. If the cottage is let as a private residence, and the garden is treated as a mere adjunct thereto, the Acts would not seem to apply.^(a)

The Market Gardeners' Compensation Act, 1895, defines a "Market Garden" as a holding or that part of a holding which is cultivated, wholly or mainly, for the purpose of the trade or business of market gardening.^(b)

By Section 35 (1) of the Small Holdings & Allotments Act, 1907, a small holding or allotment let by a Council is (subject as therein mentioned) treated, with respect to compensation for improvements, as a holding which it has been agreed in writing to be let or treated as a market garden.^(c)

For the purposes of the Small Holdings Acts, 1892 and 1907, the expression "small holding" means an agricultural holding which exceeds one acre and either does not exceed fifty acres, or, if exceeding fifty acres, is at the date of sale or letting of an annual value for the purposes of income tax not exceeding fifty pounds.^(d)

- (a) cf. *Macintosh v. Lovat* 14 Cot. Sess. Cos. (4th series) 282.
Taylor v. Earl of Moray 19 Cott. Sess. Cos. (4th series) 399.
Godfrey v. Jacobs 30 Sol. J. 539.
- (b) 58 & 59 Vict. c. 27, s. 6.
 cf. *In re Wallis* 14 Q. B. D. 950.
Hammond, ex p. 14 L.J. Bk. 14.
- (c) cf. 58 & 59 Vict. c. 27, s. 3.
- (d) 7 Edw. 7. c. 54. s. 46 (1).

The principal matters dealt with by the Agricultural Holdings Acts, 1883-1900 are as follows :—

- (1) Compensation for Improvements.
- (2) Fixtures.
- (3) Distress.
- (4) Penal Rents.
- (5) Power of Entry to view state of Holding.
- (6) Notice to Quit.
- (7) Arbitration.

1. Compensation for Improvements.

Compensation
for improve-
ments.

Where a tenant has made on his holding any improvement comprised in the First Schedule to the Agricultural Holdings Act, 1900, he is entitled, at the determination of his tenancy, on quitting his holding to obtain from the landlord as compensation for the improvement, such sum as fairly represents the value of any such improvement to an incoming tenant.

Avoidance of
agreement in-
consistent with
Act.

Any contract, agreement, or covenant made by a tenant, by virtue of which he is deprived of his right to claim compensation under the Agricultural Holdings Acts in respect of any improvement mentioned in the said First Schedule (except an agreement providing such compensation as is by the Acts permitted to be substituted for compensation under the Acts) is, so far as it deprives him of such right, void both at law and in equity. ^(a)

Three classes
of improve-
ments.

A. Permanent.

Three classes of improvements are specified :—

A. Improvements of a permanent nature.

Compensation in respect of such improvements can, however, only be obtained if the landlord, or his agent

(a) 46 & 47 Vict. c. 61. s. 55.
cf *Mears v. Callendar*, 1901, 2 Ch. 388.

duly authorised in that behalf, has consented in writing thereto;^(a) and such consent may be given by the landlord unconditionally, or upon such terms as to compensation or otherwise, as may be agreed upon between the parties.^(b)

B. Improvements effected by drainage.

B. Drainage.

In such cases, the tenant must give to the landlord, or to his agent duly authorised in that behalf, notice in writing of his intention to execute the improvement. Thereupon the parties may agree on the terms, as to compensation or otherwise, on which the improvement is to be executed. Or the landlord may elect to carry out the improvement himself, in which case he may charge the tenant interest on the outlay incurred. In the event of no agreement being come to, or if the landlord fails to carry out his undertaking to execute the improvement, the tenant may do the work himself, and will be entitled to compensation under the Acts in respect thereof.^(c)

C. Improvements such as the application to the land of purchased manure, the consumption on the holding of corn or cake, the laying down of Temporary pasture^(d); and, in the case of a holding as to which section 3 of the Market Gardeners' Compensation Act, or section 35 of the Small Holdings & Allotments Act, 1907, applies, such matters as the planting of fruit trees permanently set out, strawberry plants, and the erection or enlargement of buildings for the purpose of the trade or business of a market gardener.^(e)

C. Of a manorial nature.

The Agricultural Holdings Act, 1906, adds to this class of improvement "Repairs to buildings, being buildings necessary for the proper cultivation of the holding, other than repairs

Repairs to Buildings.
6 Edw. 7 c. 56,
s. 6.

(a) cf Mears v. Callendar, 1901, 2 Ch. 388.

(b) 46 & 47 Vict. c. 61, s. 3.

(c) 46 & 47 Vict. c. 61, s. 4.

(d) cf. Hamilton Ogilvy v. Elliott, 7 F. 1115, Ct. of Sess.

(e) 63 & 64 Vict. c. 50. 1st Schedule, Part III.

which the tenant is himself under an obligation to execute."^(a)
This addition is dealt with hereafter in the comments on Section 6 of that Act.

This third class of improvement can be effected, and compensation thereunto claimed, by the tenant without any consent of, or notice (except in the case of the last mentioned improvement) to the landlord. But in the case of market gardens, as to certain improvements set out in Part III. of the First Schedule to the Agricultural Holdings Act, 1900, market gardening must have been agreed to in writing; or, in the case of tenancies current on the first of January, 1896, the landlord, knowing at that date that the holding was in use as a market garden, must not have dissented in writing to the improvement, previously to the execution thereof.^(b)

Substituted
Compensation.

It is, however, open to the parties to make a particular agreement in writing securing to the tenant, for any such improvement, fair and reasonable compensation, having regard to the circumstances existing at the time of making such agreement. In this event, such compensation shall be payable in pursuance of the particular agreement, and shall be deemed to be substituted for compensation under the Acts.^(c)

The inherent
capabilities of
the soil.

Under the Agricultural Holdings Acts, 1883-1900, it is provided that in estimating the value of any of the above mentioned improvements, there shall not be taken into account, as part of the improvement made by the tenant, what is justly due to the inherent capabilities of the soil.^(d) This provision is (as from the 1st January, 1909) repealed by the Agricultural Holdings Act, 1906.^(e)

(a) 6 Edw. 7. c. 56, s. 6.

(b) 58 & 59 Vict. c. 27, ss. 3, 4.
cf. 6 Edw. 7. c. 56, s. 5.

(c) 46 & 47 Vict. c. 61, s. 5 & cf. ss. 17. 55.

(d) 63 & 64 Vict. c. 50, s. 1 (1).

(e) 6 Edw. 7. c. 56, s. 1 (1).

By the Market Gardeners' Compensation Act, 1895, a tenant is not entitled to compensation for improvements which he had executed before the date of the commencement of that Act,^(a) but by the Agricultural Holdings Act, 1906, it appears that, after the 1st January, 1909, he will be so entitled.^(b)

MarketGardens.
Retrospective
effect of 6 Edw.
7 c. 56, s. 5.

If an incoming tenant has, with the consent in writing of his landlord, (or in the case of market gardeners, without such consent),^(c) paid to an outgoing tenant any compensation payable under the Acts in respect of improvements, then such incoming tenant is entitled on quitting the holding to claim compensation in respect of such improvement in like manner as the outgoing tenant would have been entitled if he had remained tenant of the holding, and quitted the holding at the time at which the incoming tenant quits the same.^(d)

Right of tenant
in respect of
improvement
purchased from
outgoing tenant

A tenant, who has remained on his holding during a change or changes of tenancy, shall not thereafter, on quitting his holding, at the determination of a tenancy, be deprived of his right to claim compensation in respect of improvements by reason only that such improvements were made during a former tenancy or tenancies, and not during the tenancy at the determination of which he is quitting. Therefore the tenant is still entitled to claim compensation although he has remained on after the determination of a previous contract of tenancy, or if the reversion has changed hands during the period of his tenancy.

Provision as
to change of
tenancy.

- (a) 58 & 59 Vict. c. 27, s. 4.
Smith v. Callendar 1901, A.C., 297.
Mears v. Callendar 1901, 2 Ch., 388.
- (b) 6 Edw. 7. c. 56, s. 5.
- (c) 58 & 59 Vict. c. 27, s. 3 (4).
- (d) 46 & 47 Vict. c. 68, s. 56.
- (e) 46 & 47 Vict. c. 61, s. 58.

Account to be
taken of benefit
given by
landlord.

Any benefit which the landlord has given or allowed to the tenant, in consideration of his executing any improvement, must be taken into account in ascertaining the amount of compensation payable to the tenant. ^(a) And after a matter has once gone to arbitration, the landlord may require the arbitration to extend to any claim he may make against the tenant in respect of waste, breach of contract, or otherwise, in respect of the holding. The tenant, in like case, has the right to put forward any claim against the landlord for breach of contract, or otherwise, in respect of the holding. ^(b)

Restriction in
respect of
improvements
by tenant about
to quit.

A tenant is not entitled to compensation in respect of any improvements, other than the manorial improvements numbered 23, 24, & 25 in Part III. of the First Schedule to the Agricultural Holdings Act, 1900,^(c) which have been begun by him :

if he holds from year to year,

within one year before he quits the holding, or,

at any time after he has given or received a notice to quit which results in his leaving the holding.

if he holds under a lease.

within one year before the expiration of his lease.

But this rule does not apply :—

- (a) Where a tenant from year to year has begun such improvement during the last year of his tenancy, and in pursuance of a notice to quit thereafter given him by the landlord, has quitted his holding at the expiration of that year.

(a) 63 & 64 Vict. c. 50, s. 1 (3).

(b) 63 & 64 Vict. c. 50, s. 2 (3).

(c) 63 & 64 Vict. c. 50, s. 9 (1).

- (b) Where a tenant, whether holding from year to year, or under a lease, has, before beginning such improvement, served notice on the landlord of his intention so to do—and the landlord has either assented thereto, or has failed for one month after receiving the notice, to object to the making of the improvement.^(a)

In the ascertainment of the amount of compensation payable to a tenant in respect of manures, there is not to be taken into account the value of the manure required by the contract of tenancy or by custom to be returned to the holding in respect of any crops sold off or removed from the holding within the last two years of the tenancy (or other less time for which the tenancy has endured); but such value is not to exceed the value of the manure which would have been produced by the consumption on the holding of the crops so sold off or removed.^(b) This provision shows the importance of placing the tenant under an obligation to consume certain crops upon his holding, or in default, to make a proper manurial return thereto.

Ascertainment of amount of Compensation payable to tenant in respect of manures.

It should be noted that it is provided by the Agricultural Holdings Act, 1906, that a tenant shall not be entitled to any compensation in respect of improvements comprised in Part III. of the First Schedule to the Agricultural Holdings Act, 1900, which have been made for the purpose of making such suitable and adequate provision to protect the holding from injury or deterioration as is required by the third Section of that Act.

By the Allotments and Cottage Gardens Compensation for Crops Act, 1887, a tenant is entitled, upon the determination

Compensation under the Allotments and Cottage Gardens Act, 1887.

(a) 46 & 47 Vict. c. 61, s. 59.

(b) 63 & 64 Vict. c. 50, s. 1 (4).
cf. Hull and Meux (Lady). In *re*. 1905 1 K.B., 588.

of his tenancy, to obtain compensation from the landlord for the following matters :—

- (a) For crops, including fruit, growing upon the holding in the ordinary course of cultivation, and for fruit trees and fruit bushes growing thereon, which have been planted with the previous consent in writing of the landlord.
- (b) For labour expended upon, and manure applied to the holding since the taking of the last crop therefrom in anticipation of a future crop.
- (c) For drains, and for any outbuildings, pigsties, fowlhouses, or other structural improvements, made by the tenant upon his holding with the written consent of his landlord.^(a)

No claim for compensation may be made under the Agricultural Holdings Acts for any matter or thing in respect of which a claim for compensation is made under this Act: and, as it is enacted that in any case in which the provisions of the Agricultural Holdings Act, 1883, and of this Act conflict the provisions of this Act are to prevail,^(b) it would appear that the tenant of an “allotment,” whether attached to a cottage or otherwise, could only claim compensation under this Act^(c); and, by Section 35 (3) of the Small Holdings and Allotments Act, 1907, a tenant of an allotment to which the Allotments Acts, as amended by that Act, apply, is entitled, if he so elects, to claim compensation for improvements under this Act, instead of under the Agricultural Holdings Acts, 1883 to 1906, notwithstanding that the allotment exceeds two acres in extent.

Compensation for improvements under the Small Holdings and Allotments Act, 1907.

The said Section 35, also provides that, where a Council has let a small holding or allotment to any tenant, the tenant

- (a) 50 & 51 Vict. c. 26. s. 5.
- (b) 50 & 51 Vict. c. 26. s. 18.
- (c) See page 68 *infra*.

has, as against the council, the same rights with respect to compensation for the improvements mentioned in paragraph (27) (i) (ii) (iii) and (iv) of the First Schedule to the Agricultural Holdings Act, 1900, (such improvements comprising the planting of standard or other fruit trees or fruit bushes permanently set out; the planting of strawberry plants, asparagus, rhubarb and other vegetable crops which continue productive for two or more years; and the erection or enlargement of buildings for the purpose of the trade or business of a market gardener) as if it had been agreed in writing that the holding or allotment should be let as a market garden. ^(a)

The tenant is, however, not entitled to such compensation if the improvement is executed contrary to an express prohibition in writing by the Council affecting the whole or any part of the holding or allotment: but, if the tenant feels aggrieved by any such prohibition, he may appeal to the Board of Agriculture and Fisheries, who may confirm, vary, or annul the prohibition, and their decision is final. ^(b) It is further provided by the same Section that where land has been hired by a Council for small holdings or allotments, the Council is (subject in the case of land hired by agreement to any agreement to the contrary) entitled at the determination of the tenancy on quitting the land to compensation for any of the last mentioned improvements, and also for any improvement mentioned in Part I. (*i.e.* improvements of a permanent nature) or Part II. (*i.e.* improvements effected by drainage) of the said First Schedule, which was necessary or proper to adapt the land for small holdings or allotments, in the same manner as if such improvements were improvements mentioned in Part III. of that Schedule—(with respect to which no consent of, or notice to, the landlord is required).

If, however, the land had been hired compulsorily, the amount of the compensation payable to the council for those

(a) cf. 58 & 59 Vict. c. 27, s. 3.

(b) 7 Edw. 7. c. 54. s. 35 (1).

improvements is to be such sum as fairly represents the increase (if any) in the value to the landlord and his successors in title of the holding due to those improvements. ^(a)

As to tenants of
Mortgagor, who
hold under
agreements
not binding on
Mortgagee.

The Tenants' Compensation Act, 1890, provides for the case of tenants of a mortgagor, who hold under contracts of tenancy which are not binding on the mortgagee.

Under this Act, the occupier is entitled, as against the Mortgagee who takes possession, to such compensation, respecting matters connected with the land, as would be due to the occupier from the mortgagor, either under the Principal Acts, the custom of the country, or by agreements sanctioned by the Principal Acts. The amount of compensation may be set off against any rent, or other sum, due in respect of the land.

This Act further provides that, in the case of contracts of tenancy from year to year, or for a term of years not exceeding 21 at a rack rent, the mortgagee, before he deprives the occupier of possession of the land, otherwise than in accordance with the terms of such contracts, shall give to the occupier six months' written notice of his intention so to do. And, if he so deprives him, compensation is due to the occupier for his crops, and for any expenditure upon the land which he has made in the expectation of holding the land for the full term of his contract of tenancy, in so far as any improvement resulting thereupon is not exhausted at the time of his being so deprived. ^(b)

This Act is to be construed as one, not only with the Agricultural Holdings Act, 1883, but also with the Allotments and Cottage Gardens Act, 1887.

Time within
which compen-
sation must be
claimed.

The tenant may make his claim for compensation, in respect of improvements, at any time before the determination of the tenancy.

(a) 7 Edw. 7. c. 54. s. 35 (2).

(b) 53 & 54 Vict. c. 57, s. 2.

If, however, the claim relates to an improvement executed after the determination of the tenancy, but while the tenant lawfully remains in occupation of part of the holding, the claim may be made at any time before the tenant quits that part.^(a)

In a case where the tenant of a farm was entitled under the custom of the county, to hold over a portion of the land for four months after the expiration of his notice to quit the farm, it was held that the "determination of the tenancy" took place when the tenant's holding under the custom of the county ended.^(b)

It is open to the tenant to claim any compensation to which he may be entitled, under custom, agreement, or otherwise, in lieu of any compensation under the Acts.^(b)

Tenant may elect to claim under custom, agreement, or otherwise.

2. Fixtures.

Fixtures.

Where, after the 1st January, 1884, the tenant:—

- (1) Affixes to his holding any engine, machinery, fencing or other fixture.
- (2) Erects any building for which he is not entitled to compensation.

When tenant may remove them.

which fixture or building is not so affixed or erected, either in pursuance of some obligation in that behalf, or instead of some fixture or building belonging to the landlord;

then such fixture or building becomes the property of the tenant, who may remove it before, or within a reasonable time after, the termination of the tenancy; provided that the tenant:—

- (a) 63 & 64 Vict. c. 50, s. 2. (2).
- (b) In *re Paul*, *Ex parte* Earl of Portarlington, 24 Q.B.D. 247. and see *Morley v. Carter* 1898, 1. Q. B. 8.
Black v. Clay, 1894, A.C. 368.
- (b) 63 & 64 Vict. c. 50, s. 1 (5).

- (a) Before such removal, pays all rent owing by him, and satisfies all other his obligations to the landlord.
- (b) In the course of such removal, does no avoidable damage to the holding.
- (c) Immediately after such removal, makes good all damage occasioned thereby.

Tenant must give notice before removal and landlord may then elect to purchase.

The tenant, however, must not remove any fixture or building without giving one month's previous notice in writing to the landlord of his intention so to do: and the landlord may, at any time before the expiration of such notice, elect to purchase any fixture or building comprised in such notice. The fair value thereof to an incoming tenant fixes the price to be paid, and any difference as to the value must be settled by arbitration.^(a)

Extension in case of market gardens.

It is provided by the Market Gardeners' Compensation Act, 1895, that where, after the 1st January, 1896, it is agreed in writing that a holding shall be let or treated as a Market Garden, the above mentioned provisions shall extend to every fixture or building affixed or erected by the tenant to or upon such holding for the purpose of his trade or business of a Market Gardener.^(b) Such tenant may also remove all fruit trees and fruit bushes planted by him on the holding and not permanently set out, provided he does so before the termination of his tenancy.^(c)

By Section 4 (2) of the Small Holdings Act, 1892, as amended by the Small Holdings & Allotments Act, 1907, a tenant of any small holding may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him for which he has no claim for compensation, and may remove any toolhouse, shed, greenhouse, fowlhouse

(a) 46 & 47 Vict. c. 61, s. 34.

(b) 58 & 59 Vict. c. 27, s. 3.

(c) 58 & 59 Vict. c. 27. s. 3 (5).

or pigsty built or acquired by him for which he has no claim for compensation.

By the Agricultural Holdings Act, 1900, the above provisions are made to extend to cases in which the fixtures or buildings have been acquired by a tenant.^(a)

Fixtures
acquired by
tenant.

3. Distress.

Distress.

The rigour of the law respecting distress is relaxed in the case of agricultural holdings.

The landlord of such a holding may distrain for one year's arrears of rent only.^(b)

Distrain for one
year's arrears of
rent.

He is, moreover, absolutely forbidden to distrain for rent in arrear on :—

- (a) Agricultural or other Machinery—the bonâ fide property of a person other than the tenant—which is on the premises under a bonâ fide agreement for the hire and use thereof in the conduct of the tenant's business.
- (b) Live stock—the bonâ fide property of a person other than the tenant—which is on the premises solely for breeding purposes.

Things exempt
from distress.

And he may only distrain on :—

- (c) Live stock, taken in by the tenant to be fed at a fair price,

when there is no other sufficient distress to be found—and then only to the amount due in respect of the price agreed to be paid for the feeding.^(c)

- (a) 63 & 64 Vict. c. 50, s. 4.
- (b) 46 & 47 Vict. c. 61, s. 44.
cf. *Ex parte Bull, In re. Bew.* 18 Q.B.D. 642.
- (c) 46 & 47 Vict. c. 61, s. 45.

Agistment at
a "fair price."

Live stock agisted for a fair equivalent is within 46 & 47 Vict. c. 61. s. 45, as taken in to be fed at a "fair price," and may, therefore, be exempt from distress, even although such equivalent be not money. In a case where cows were agisted on the terms "milk for meat," *i.e.*, that the agister should take their milk in exchange for their pasturage, it was held that the agistment was within the Act.^(a) But in another case in which cattle were distrained while on a holding pursuant to an agreement by which the tenant, in consideration of £2, allowed the owner "the exclusive right to feed the grass on the land for four weeks," it was held that the cattle were not "taken in" by the tenant "to be fed at a fair price" within the meaning of the Agricultural Holdings Act, 1883, and were therefore not privileged from distress.^(b)

Jurisdiction of
County Court,
or Court of
Summary
Jurisdiction.

In the case of dispute, it is permissive to resort to the County Court^(c) or to a Court of summary jurisdiction, with an appeal from the latter, to a Court of Quarter Sessions.^(d)

Set off.

If any compensation due to the tenant has been ascertained before the landlord distrains for rent, the amount of such compensation may be set off against the rent due, and the landlord may only distrain for the balance.^(e)

Penal Rents.

4. Penal Rents.

Although there may be provision in a contract of tenancy, making the tenant liable to pay a higher rent or other liquidated damages, in the event of the breach or non-fulfilment

- (a) *The London and Yorkshire Bank v. Belton* 25 Q.B.D. 547.
- (b) *Masters v. Green* 20 Q.B.D. 807.
- (c) cf C.C.R. Ord. XL. r. 8.
- (d) 46 & 47 Vict. c. 61, s. 46.
- (e) 46 & 47 Vict. c. 61, s. 47.

of a covenant or condition, the landlord cannot recover any sum, in consequence of any such breach or non-fulfilment, in excess of the damage actually suffered by him thereby.

This, however, does not apply to any covenant or condition against:—

- Breaking up permanent pasture.
- Grubbing underwoods.
- Felling, cutting, topping or injuring trees,
- or regulating the burning of heather. ^(a)

5. Power of Entry to view state of Holding. Power of Entry.

The landlord of a holding, or any person authorised by him, may, at all reasonable times, enter on the holding, or any part of it, for the purpose of viewing the state of the holding. ^(b)

6. Notice to Quit. Notice to quit.

In the case of a tenancy from year to year, it is necessary, in order to terminate such tenancy, that one year's notice to quit, expiring with a year of the tenancy, should be given. ^(c) But this does not apply if there is an express stipulation as to the length of notice to quit that must be given. ^(d)

One year's notice.

Unless express stipulation.

It is useful to remember that, in drafting a notice to quit, it is permissible to give the notice as for two alternative days, provided one of them is the correct one; and it is usually prudent, after naming the day, to add "or other the day on

Form of notice to quit.

- (a) 63 & 64 Vict. c. 50, s. 6.
cf. *Birch v. Stephenson* 3 Taunt, 469.
Willson v. Love 1896 1 Q.B. 626 C.A.
- (b) 63 & 64 Vict. c. 50, s. 5.
- (c) 46 & 47 Vict. c. 61, s. 33.
- (d) *Wilkinson & Calvert* 3 P.C.D., 360.
Barlow v. Teal 15 Q.B.D., 501.

which the current year of your tenancy will expire next after the end of (half) a year from the date of this notice.”^(a)

Service of notice
to quit.

Section 28 of the Agricultural Holdings Act, 1883, providing as to the service of “any notice, request, demand, or other instrument under this Act,” has been held to be applicable to a notice to quit; and such notice may be served upon the person to whom it is given by being sent through the post in a registered letter, addressed to him at his last known place of abode in England. ^(b)

Partial notice
to quit.

In the case of a tenancy from year to year, the landlord may give to the tenant a notice to quit with the view to the use of land for such purposes as the erection of cottages, the planting of trees, the making of reservoirs, and (by Section 38 of the Small Holdings and Allotments Act, 1907) the provision of small holdings, and no objection can be taken to the notice on the ground that it relates to part only of the holding.

Such notice must state the purpose for which the land is required.

If the tenant gives up the portion of the land so required, he is entitled to compensation in respect of improvements, and to a proportionate reduction of rent, taking into account any depreciation of the value to him of the residue of the holding, caused by the withdrawal of that land from the holding, or by the use to be made thereof.

The tenant may, however, accept the notice as a notice to quit the entire holding, to take effect at the expiration of the then current year of tenancy. ^(c)

(a) *Sidebotham v. Holland*, 1895, 1 Q.B., 378, 389.

(b) *Van Grutten v. Trevenen*, 1902, 2 K.B., 82.

(c) 46 & 47 Vict. c. 61, s. 41.

The subject of notice to quit must be studied with careful reference to the provisions of the Agricultural Holdings Act, 1906. ^(a) 6 Edw. 7 c. 56, s. 4.

7. Arbitration.

Arbitration.

The tendency of the Agricultural Holdings Acts is to refer matters in dispute thereunder to arbitration. ^(b) If a tenant claims to be entitled to compensation in respect of any improvement comprised in the First Schedule to the Agricultural Holdings Act, 1900, then, if the landlord and tenant fail to agree as to the amount, time, and mode of payment of such compensation, the difference must be settled by arbitration: and the claim for compensation cannot even form the subject matter of a counterclaim in an action for rent brought by the landlord; and so likewise as to any difference respecting the value of fixtures retained by the landlord under Section 34 of the Agricultural Holdings Act, 1883, or respecting the amount of the reduction of rent to which the tenant is entitled in the case of his giving up a portion of the holding on a partial notice to quit. ^(d) Disputes as to compensation.

As to fixtures.

The arbitration must be in accordance with the provisions (if any) in that behalf contained in any agreement between the landlord and tenant. But if there are no such provisions, then it must be in accordance with the provisions set out in the Second Schedule to the Agricultural Holdings Act, 1900. ^(c) After the 1st January, 1909, however, the arbitration must be before a single arbitrator in accordance with the provisions set out in Part I. of the said Schedule ^(e); and the Arbitration Act, 1889, is then no longer to apply. 6 Edw. 7 c. 56, s. 1 (2).

(a) 6 Edw. 7. c. 56, s. 4.

(b) cf *Farquharson v Morgan*, 1894, 1 Q.B. 552.

(c) *Gas Light & Coke Company v Holloway*, 52, L.T. 434.
See also *Schofield v. Hincks*, 58 L.J. Q.B. 147.

(d) 46 & 47 Vict. c. 61. s. 41.

(e) 63 & 64 Vict. c. 50, s. 2 (1)

(f) 6 Edw. 7. c. 56, s. 1 (2).

Arbitration
under the
Allotments
and Cottage
Gardens Act,
1887.

The amount and time of payment of compensation in cases arising under the Allotments and Cottage Gardens Compensation Act, 1887, must, in default of agreement, be determined by an arbitrator. Such arbitrator may be appointed by the parties, but if they do not concur in the appointment, an application may be made to the Justices of the Peace, who must thereupon appoint one of themselves who is not interested in the holding, or some other competent and disinterested person to act. The consent of such arbitrator to act without remuneration must be sought, but if this is not possible, the Justices must fix a reasonable remuneration for his services. ^(a)

Arbitration must be carefully distinguished from valuation. This matter is discussed hereafter in the comments on Section 1 (2) of the Agricultural Holdings Act, 1906.

The above are the principal subjects comprised in the Agricultural Holdings Acts, 1883-1900. Various other matters, such as the power given to the landlord, on paying compensation, to obtain a charge on the holding,^(b) and the rules of procedure, can be ascertained by reference to the Acts themselves, which, together with the Board of Agriculture and County Court Rules, Orders and Forms thereunder, are, for the sake of convenience, set out in the Appendix hereto.

(a) 50 & 51 Vict. c. 26, ss. 7, 8.

(b) See *Gough v Gough*, C. A. 1891 2 Q.B. 665.

PART II.

THE AGRICULTURAL HOLDINGS ACT, 1906.

A SHORT INTRODUCTION THERETO.

This Act seems to possess three leading characteristics.

Characteristics
of the Act.

In the first place it will be noticed that the landlord is treated with a degree of severity, which, in view of the excellent and cordial relations which, for the most part, exist between English landlords and their tenants, appears to be very unmerited. The landlord of an agricultural holding is to be placed in a very unfavourable position as compared with the landlord of any other business premises, and therefore it is incumbent on him to enquire into that position and satisfy himself that his interests are as well protected as the circumstances permit.

The second characteristic is the manner in which freedom of contract—which, until recent years, had been one of the most cherished principles of our law—is interfered with, coupled with the stringent precautions taken against contracting out of the Act.

Thirdly, the Act bears the semblance of having been hastily drafted ; its terms and phrases are often couched in vague and indefinite language, and its interpretation is, in consequence, by no means easy.

The principal matters dealt with by this Act are as follows :—

- (1) Arbitration.
- (2) Improvements.
- (3) Damage by Game.
- (4) Freedom of Cropping and Disposal of Produce.
- (5) Compensation for unreasonable disturbance.

Arbitration.

I. Arbitration. It is provided that all questions which are referred to arbitration^(a), shall, after the 1st of January, 1909, be determined by a single arbitrator—and this provision is so far retrospective that it is to make no difference whether the matter, to which the arbitration relates, arose before or after that date. Contracting out of this provision is expressly negatived.

The arbitration will have to be in accordance with the rules set out in Part I. of the Second Schedule to the Agricultural Holdings Act, 1900.

If the parties fail to agree upon the arbitrator, the Board of Agriculture is to nominate him.

It is doubtful whether this provision will prove satisfactory to either landlord or tenant, and the arbitrator himself may not be altogether pleased with the heavy responsibility which is thrown upon him. In a case where each party is at liberty to select an arbitrator—and the two arbitrators so selected choose an umpire—it is reasonable to suppose that confidence in the tribunal can be felt by both sides ; but the same degree of confidence may not perhaps be experienced when a matter has to be submitted to a single arbitrator nominated

(a) cf. *Shrubb v. Lee*, 59 L.T. 376.

by a Government department—and it is not even known what person in that Department will exercise the power of such nomination; for when an important question, as, for example, such as may arise under Section four of this Act, is once in dispute, the parties themselves will not always be able to agree as to the person who is to judge between them.

There does not, however, appear to be anything to prevent the parties agreeing, in the contract of tenancy or otherwise, on the person who shall act as arbitrator should his services be required; and in some cases it may be deemed advisable to adopt this course.

It must, however, be remembered that valuation is not arbitration, and in cases in which it is agreed (*e. g.*) that compensation for improvements is to be determined by valuation, it is quite probable that no question of arbitration will arise at all. This matter is more fully dealt with in the comments on Section 1 (2) of this Act.

2. Improvements. These are dealt with in two Improvements.
ways :—

(A) As regards the valuation of the improvements for which, under the Agricultural Holdings Acts, compensation is due to a tenant on quitting his holding.

It was provided by the Agricultural Holdings Act, 1900, that, in such a valuation, such part of the improvement as is justly due to the inherent capabilities of the soil should not be credited to the tenant. This provision is repealed by the present Act. The inference is that it is the intention of the Legislature that a tenant shall be entitled to be compensated for the whole value of such improvements—including everything due to the natural fertility of the soil.

The precise significance of this change in the law is a matter for the opinion of an agricultural valuer, and land-owners should seek such expert advice on this point.

- (B) An addition is made to that list of improvements which a tenant may make without his landlord's consent, but for which he is entitled, on quitting his holding, to be compensated.

This addition is—"Repairs to buildings, being buildings
" necessary for the proper cultivation or working of the
" holding, other than repairs which the tenant is
" himself under an obligation to execute.

The importance of this addition will vary on different estates according to the condition of the buildings, the system of estate management, and the covenants in use as to repairs. On a large agricultural estate, where a gang of estate workmen is maintained, such covenants are often very favourable to the tenant. In the case of a single farm property, where the landlord may live at a distance therefrom, repairing covenants may be more stringent. Again, there may be landlords who, while not imposing on their tenants any great liability to repair, yet refuse to do very much in that direction themselves. But, in any event, it would seem that the matter of repairs is essentially one for freedom of contract; a farmer is quite capable of driving a bargain, he can see the land, and the condition of the buildings thereon, and is influenced thereby in deciding on the amount of rent which he agrees to pay. The burden imposed upon the landlord by reason of this addition is an onerous one, and should be guarded against, especially as it is quite possible that the landlord and the tenant may have very different opinions as to whether a given building is in need of repair—and there are many sheds and buildings which, though not quite up to a model standard, yet serve their purpose very usefully.

It is obvious that the repairing covenants in existing leases and agreements were not framed to meet the requirements of the sixth section of this Act, and therefore landlords should carefully consider the liability—which may be very great—that they will incur thereunder, and decide whether it will not be advisable to re-model such covenants in the future.

3. Damage by Game. A tenant—who has Damage by game. not himself the right of shooting over his holding—is given the right to claim compensation for damage done to his crops by deer, pheasants, partridges, grouse and black game. If, however, the right of shooting is vested in some person other than the landlord, the landlord is entitled to be indemnified by that person against any claim for such compensation.

There are many estates which will not be affected by this provision, but in “shooting” counties it will be of considerable importance.

This provision seems fair to the tenant, and a sportsman should be prepared to pay for his sport. The Act, moreover, expressly provides for the case in which allowance for damage done by game has been made in fixing the rent. It should be noted, however, that it is required that such allowance must be “to an agreed amount.”

4. Freedom of Cropping and Disposal of Produce. The Act strikes a great blow at the almost Freedom of cropping and disposal of produce. universal system of regulating the method of cropping and of restricting the sale or removal of certain produce.

In drafting agricultural leases and agreements it has long been considered important to insert covenants to crop in a certain method, *e.g.* on the four or five course system—or at least to cultivate in a husbandlike manner (*i.e.* according to

the custom of the county);^(a) and even more important to forbid the removal from the holding of hay, straw, roots and green crops.

These covenants have 'been insisted upon in order to ensure that the fertility of the soil should be kept up, that a sufficient head of stock should be maintained upon the farm, and that the land should be properly and regularly cleaned.

By this Act, however, the tenant is—notwithstanding any custom of the country, or the provisions of any contract of tenancy, or agreement—to be at liberty to follow any system of cropping he pleases, and to dispose of any of the produce of his holding. But previously to, or without unreasonable delay after, so doing, he must make suitable and adequate provision to protect the holding from injury or deterioration.

During recent years agricultural science has made rapid progress, and the opinion has been expressed that the covenants in question are out of date and no longer necessary. Artificial manures and feeding stuffs are in general use, and it is claimed that the fertility of the soil can be maintained thereby, without utilizing any of the products of the farm.

The agricultural chemist can tell us what constituents are removed from the soil by each crop, and what is the manurial value of any description of food. The valuable experiments carried out at Rothamstead and elsewhere have resulted in the compilation of a large mass of data quite unknown at the time when such covenants were first deemed essential.

It is, however, very important that the "suitable and adequate provision" referred to in the Act should be ascertained and agreed upon between the parties. It is not difficult to imagine a vast source of dispute if this matter is left to chance; and it may quite possibly happen that, in some cases,

(a) See *Meux v. Copley*, 1892, 2 Ch. 253.

if it is left to the tenant to make that provision "as soon as may be" after he has transgressed the covenant, it may resemble the story of locking the stable door after the horse has been stolen.

It is a practical question to consider, what portion of such provision should consist of cake, or other feeding stuffs, to be consumed on the holding, so as to ensure stock being kept, and farmyard manure made, thereon.

It seems important to take steps to prevent a tenant making a system of growing only such crops as he can readily turn into money, selling them off, and returning to the land any kind of chemical manure—which may indeed, on analysis, have an equivalent manurial value—but which, in practice, may fail to keep the land in good heart and condition. There is much truth in the old adage:—

"Lime and lime without manure
Makes both farm and farmer poor."

It is no disparagement to the general body of farmers to point out that there is a certain class of tenant, who go up and down the country, renting farms for a few years, working them as cheaply as possible, taking everything possible out of them, and finally leaving them dirty and impoverished.

The prudent landowner will seek the advice of the agricultural expert and the agricultural chemist, and cause to be drawn up a careful and detailed schedule of the provision which the tenant must make, if he elects to avail himself of the license afforded him by the third section of this Act.

Compensation
for unreason-
able disturbance

5. Compensation for unreasonable disturbance. Such are the words of the side note to the fourth section of this Act.

That section provides, that if a landlord, "without good and sufficient cause, and for reasons inconsistent with good estate management," terminates a tenancy by notice to quit; or refuses to grant a renewal of a tenancy, if so requested at least one year before the expiration thereof; or if a tenant quits his holding in consequence of a demand by the landlord for an increased rent—such demand being due to an increased value in the holding, on account of improvements done by the tenant—then in either of such events the tenant will be entitled to compensation from the landlord for any loss or expense unavoidably incurred in connection with the sale or removal, of not only his live and dead stock, but also of his household goods.

It will not be sufficient for the landlord to act with good and sufficient cause: it is also necessary that his reasons should be consistent with good estate management.

It is not usual for landlords to arbitrarily get rid of good tenants: many farms have indeed been held by members of the same family during several generations: but occasions may arise when it is deemed expedient to make a change, and then it will be difficult to determine what will fulfil the requirements of a reason which is not to be "without good and sufficient cause, and for reasons inconsistent with good estate management."

But all agricultural holdings do not form portions of large estates, where the land is always let as a matter of course. There are owners of single farm properties, which, by the force of divers circumstances, they may be compelled to let for a certain term. Such an owner may intend—and the tenant

may know his intention—to return to, and reside upon, his property at the expiration of that term. Under this Act, however, the desire may, very possibly, only be gratified on payment of a heavy penalty.

In the case of market gardens, too, this compensation in respect of unreasonable disturbance may press very hardly on the landlord.

Market gardens usually have their position in close proximity to towns; but towns are continually growing and extending, and the tendency is to keep moving market gardens further out. It appears somewhat unreasonable to thus restrict freedom of contract between landlord and tenant in such cases.

It is only reasonable to suppose that there may be cases in which it may be incumbent upon a landlord to seriously consider whether he can escape from the liability cast upon him.

On large Estates, where the routine of estate management is regular and well known, it may be possible to establish a system of tenancies for one year certain. In practice the agent would, at a definite time before the expiration thereof, offer to the tenants fresh agreements for the year following.

This expedient seems but a clumsy one, and, being hardly in accordance with the spirit of the Act, the Courts might not be inclined to assist it in any case that might arise thereon. The liability imposed upon the landlord is, however, so great and so clothed with uncertainty, that there may be circumstances in which almost any prospect of escape will be grasped at.

It is also pointed out hereafter that, in the case of a lease, the section does not seem to apply in the event of the tenant himself giving notice to quit—under and by virtue of a proviso permitting him to do so—at a date earlier than the date of the expiration of the full term granted by the lease.

PART III.

AN ACT TO AMEND THE LAW RELATING TO AGRICULTURAL HOLDINGS.

WITH COMMENTS THEREON.

21st December, 1906.

Section 1 (1) Be it enacted as follows :—

Amendment of
63 & 64 Vict. c.
50.

1.—(1) Sub section (1) of section one of the Agricultural Holdings Act, 1900, shall be repealed and for it substituted :—

Where a tenant has made on his holding any improvement comprised in the First Schedule to this Act, he shall, subject as in the Agricultural Holdings (England) Act, 1883 (in this Act referred to as “ the principal Act ”) and in this Act mentioned, be entitled at the determination of a tenancy on quitting his holding to obtain from the landlord, as compensation under the said Acts for the improvement, such sum as fairly represents the value of the improvement to an incoming tenant.

These words are, so far, identical with those of the sub-section hereby repealed, but the proviso, which constitutes the last paragraph of that sub-section, is omitted. The words of that proviso are as follows :—" Provided always, that in estimating the value of any such improvement, there shall not be taken into account, as part of the improvement made by the tenant, what is justly due to the inherent capabilities of the soil." Section 1.

The omission of this proviso may, in the case of some of the specified improvements, prove very important to the landlord.

" The inherent capabilities of the soil," would seem to mean the natural fertility, or the latent power, existing in the soil ; and in the case of *e.g.*, laying down land to pasture, planting orchards or draining, is of very considerable account. This natural fertility may, perchance, be undeveloped, but, by means of a comparatively moderate outlay, may be brought out and utilized ; and the consequent value of the improvement to an incoming tenant may be very large, as compared with the expenditure which has been incurred. While not forgetting that the skill in carrying out such an improvement may be to the credit of the tenant, yet it must also be remembered that the soil, and the resources thereof, belong to the landlord. Under this Act, however, the whole value of the improvement to an incoming tenant appears to be given to the tenant who has carried out the improvement. It is true that an increased rent may result to the landlord by reason of such improvement, but even allowing for this, there may still be a margin attributable to the inherent capabilities of the soil ; and the landlord may not unfairly consider that the amount of compensation should be, in some way, limited, as *e.g.*, to the amount of the original outlay.

The inherent capabilities of the soil.

It will therefore be necessary for a landlord to remember this point when considering whether, or upon what terms, he

Section 1. will give his consent to any improvement specified in Part I. of the First Schedule to the Agricultural Holdings Act, 1900;^(a) and when deciding on the course he shall pursue with respect to any drainage improvement.^(b) With respect to such improvements as are specified in Part III of the said Schedule, it is open to the parties to make a particular agreement in writing, securing to the tenant fair and reasonable compensation, having regard to the circumstances existing at the time of making such agreement. In this case, the compensation in respect of such improvement shall be payable in pursuance of the particular agreement, and shall be deemed to be substituted for compensation under the Act.^(c)

In order to ascertain what "reasonable" means, it is necessary to take into consideration the surrounding circumstances,^(d) and it may be argued that an agreement is reasonable, if it can be shewn that the tenant had the option of escaping it, as *e.g.*, by agreeing to a larger rental.^(e)

The burden of proof that the substituted compensation is fair and reasonable seems, however, to lie upon the landlord; and as it would appear that—if the tenant ignores the agreement, and makes a claim under the Act—the agreed compensation may become the subject of a reference,^(f) it is advisable that there should be a sound basis on which the agreed compensation is calculated.

(2) All questions which, under the Agricultural Holdings (England) Acts, 1883 to 1900, or the Agricultural Holdings (Scotland) Acts, 1883 to 1900, or this Act, or under the contract of

(a) cf. 46 & 47 Vict. c. 61, s. 3., and see s. 17.

(b) cf. 46 & 47 Vict. c. 61, s. 4.

(c) 46 & 47 Vict. c. 61 s. 5., and see ss. 17, 55.
cf. *In re Smith v Duke of Devonshire*, 22 T.L.R. 619.

(d) *Lewis v. G. W. Ry. Co.*, 3 Q.B.D. 209, 212.

(e) *Manchester, Sheffield Ry Co. v. Brown*, 8 A.C., 703.

(f) cf. 46 & 47 Vict. c. 61, s. 17.

tenancy, are referred to arbitration shall, whether Section 1.
the matter to which the arbitration relates arose
before or after the passing of this Act, be deter-
mined, notwithstanding any agreement to the
contrary, by a single arbitrator, in accordance
with the provisions set out in Part I. of the Second
Schedule to the Agricultural Holdings Act, 1900,
and any sum awarded by such arbitrator to be paid
shall be recoverable in manner provided by the
Agricultural Holdings (England) Acts, 1883 to
1900, or the Agricultural Holdings (Scotland)
Acts, 1883 to 1900, for the recovery of compensation.

(3) The following rule shall be substituted for
rule (10) in Part I. of the Second Schedule to the
Agricultural Holdings Act, 1900:—

The arbitrator shall on the application of
either party specify the amount awarded in
respect of any particular improvement or any
particular matter the subject of the award,
and the award shall fix a day, not sooner
than one month or later than two months
after the delivery of the award, for the
payment of the money awarded as Compensa-
tion, costs or otherwise, and shall be in such
form as may be prescribed by the Board of
Agriculture and Fisheries.

These two Sub-sections deal with the subject of Arbitration. The Single
arbitrator.
Sub-section (2), which, with regard to the matter to which

Section 1. the arbitration relates, is retrospective—provides that all questions which, under the Agricultural Holdings Acts, 1883 to 1900, or under this Act, or under the contract of tenancy, are referred to arbitration, must be determined by a single arbitrator,^(a) notwithstanding any agreement to the contrary.

It is provided by rule (1) of Part I. of the Second Schedule to the Agricultural Holdings Act, 1900, that a person agreed upon between the parties, or, in default of agreement, nominated by the Board of Agriculture, on the application in writing of either of the parties, shall be appointed arbitrator.

It should be noted that certain words in Section 2 of the last-mentioned Act are repealed, and that the said Section, Sub-section (1) will read:—"If a tenant claims to be entitled " to compensation, whether under the principal Act, or this " Act, or under custom agreement or otherwise, in respect " of any improvement comprised in the First Schedule to " this Act, and if the landlord and tenant fail to agree as " to the amount and time and mode of payment of such " compensation, the difference shall be settled by arbitration " under this Act, in accordance with the provisions set out " in the Second Schedule to this Act."

And Sub-section (8) thereof will read:—

"The Arbitration Act, 1889, shall not apply to any " arbitration to which this Act applies."

When, and if, there is any matter in dispute between the parties, it may not, in practice, be very easy for them to agree upon the person who is to act as a single arbitrator; so, unless they are content to trust to the nomination of the Board of Agriculture, it may be well for them to consider whether they will not, in the contract of tenancy, or otherwise,

(a) of 63 & 64 Vict. c. 50. 2nd Sched. Part I.

come to an agreement as to the person who is to act as arbitrator should occasion arise. Section 1.

Arbitration, however, must not be confused with valuation. Arbitration and
Valuation
distinguished,

The difference between them may be expressed by saying that valuation is the ascertaining of a matter in order to prevent a difference from arising,—a decision which precludes differences from arising is, generally speaking, not an award upon an arbitration:^(a) while arbitration, on the other hand, is in order to settle a difference which has arisen,^(b) and furthermore seems to imply something of a judicial nature, (*e.g.*) the taking of evidence and hearing of witnesses.

Sub-section (2) provides for all questions which are referred to arbitration being determined by a single arbitrator, but (*e.g.*) in the case of compensation for improvements, the matter is only to go to arbitration if the landlord and tenant “fail to agree” as to the amount and time and mode of payment of such compensation.^(c)

It is in many cases agreed that, in order to determine the amount of compensation which is to be paid for improvements, two valuers shall be appointed, one by either party; these valuers arrive at the sum to be paid by the use of their eyes, knowledge and skill. Here there is no failure to agree on the part of the landlord and tenant, and nothing in the nature of a judicial inquiry; consequently no question of arbitration arises: the matter is a valuation.^(d)

In other cases it is also agreed that the valuers shall, before proceeding to act, appoint an umpire, who is to give the decision in the event of the two valuers disagreeing; or again,

(a) cf. *Bos v. Helsham*, L.R. 2 Ex. 72.

(b) cf. *L.N.W. & G.W. Joint Railway Company v. Billington*, 1899, A.C. 79.

(c) 63 & 64 Vict. c. 50, s. 2 (1).

(d) cf. *In re Dawdy*, 15 Q.B.D. 426.

Section 1. there may be a custom of the country whereby the two valuers, in the event of their disagreeing, have then the right of themselves appointing an umpire.

It would appear that, in such cases as these, the valuers may appoint the umpire without either the landlord or tenant being consulted, or consenting thereto, and that the matter remains a valuation to the end—at any rate, if the umpire gives a decision based on his own skill and knowledge and does not consider the affair judicially.^(a)

If, however, there has been no such prior agreement as to the appointment, or if no such custom exists, then, in the event of the valuers disagreeing, it is submitted that a failure to agree, within the meaning of the Act, arises, and that the landlord and tenant must agree upon the person to be appointed umpire, or, in default of agreement, that the appointment must be made, on the application in writing of either party, by the Board of Agriculture.

In any event, if the umpire is to hold something of the nature of a judicial inquiry, and is not to act as a mere valuer, then, according to the circumstances of each particular case, the matter may become an arbitration,^(b) and Sub-section (2), read with Paragraph 1 of Part I. of the Second Schedule to the Agricultural Holdings Act, 1900, would apply.

The points at which valuation ends and arbitration begins, and at which an umpire becomes an arbitrator, are rather fine ones, and the following words of Lord Esher, M.R. (in *re Carus-Wilson v. Greene*, 18 Q.B.D. at p. 9) are well worth quoting:—"The question here is, whether the umpire was "merely a valuer substituted for the valuers originally "appointed by the parties in a certain event, or an arbitrator.

(a) *re Carus-Wilson & Greene*, 18 Q.B.D. 7.
re Hammond 62 L.T. 808.

(b) *of Re Hopper*, L.R. 2 Q.B. 367.

“If it appears from the terms of the agreement by which a matter is submitted to a person’s decision, that the intention of the parties was that he should hold an inquiry in the nature of a judicial inquiry, and hear the respective cases of the parties, and decide upon evidence laid before him, then the case is one of an arbitration. The intention in such cases is that there shall be a judicial inquiry worked out in a judicial manner. On the other hand there are cases in which a person is appointed to ascertain some matter for the purpose of preventing differences from arising, not of settling them when they have arisen, and where the case is not one of arbitration, but of a mere valuation. There may be cases of an intermediate kind, where, though a person is appointed to settle disputes that have arisen, still it is not intended that he shall be bound to hear evidence or arguments. In such cases it may be often difficult to say whether he is intended to be an arbitrator or to exercise some function other than that of an arbitrator. Such cases must be determined each according to its particular circumstances.” Section 1.

In coming to a right conclusion, the intention of the parties, and the fact who the umpire is—(*e.g.*, an agricultural valuer or a barrister)—appear to be matters to be taken into consideration.^(a)

Sub-section (3) substitutes a fresh rule. Rule 10 in Part I. of the Second Schedule to the Agricultural Holdings Act, 1900, compelled the arbitrator, on the application of either party, to specify the amount awarded in respect of any particular improvement or improvements. After the 1st January, 1909, he must, in like event, specify the amount awarded in respect of any particular improvement, or any particular matter, the subject of the award. In other respects, the rule remains the same as before.

(a) *Re Hammond* 62 L.T. 809.

Section 2 ⁽¹⁾

Compensation
for Damage by
Game.

2.—(1) Where the tenant has sustained damage to his crops from game, the right to kill and take which is vested neither in him nor in anyone claiming under him other than the landlord, and which the tenant has not permission in writing to kill, he shall be entitled to compensation from his landlord for such damage if it exceeds in amount the sum of one shilling per acre of the area over which the damage extends, and any agreement to the contrary, or in limitation of such compensation, shall be void.

(2) The amount of compensation payable under this section shall, in default of agreement made after the damage has been suffered, be determined by arbitration, but no compensation shall be recoverable under this section unless notice in writing is given to the landlord as soon as may be after the damage was first observed by the tenant and a reasonable opportunity is given to the landlord to inspect the damage—

(a) in the case of damage to a growing crop, before the crop is begun to be reaped, raised or consumed; and

(b) in the case of damage to a crop reaped or raised, before it is begun to be removed from the land—

and unless notice in writing of the claim, together with the particulars thereof, is given to the landlord within one month after the expiration of the

calendar year, or such other period of twelve months as by agreement between the landlord and tenant may be substituted therefor, in respect of which the claim is made. Section 2.

(3) Where the landlord proves that, under a contract of tenancy made before the commencement of this Act, any compensation for damage by game is payable by him, or that in fixing the rent to be paid under such contract, allowance in respect of such damage to an agreed amount was expressly made, the arbitrator shall make such deduction from the compensation which would otherwise be payable under this section as may appear just.

(4) Where the right to kill and take the game is vested in some person other than the landlord, the landlord shall be entitled to be indemnified by such other person against all claims for compensation under this section.

For the purposes of this section the expression "game" means deer, pheasants, partridges, grouse and black game.

It will be observed that the expression "game" as used in this section does not include ground game—hares and rabbits,—the tenant being already sufficiently protected thereunto under and by virtue of the provisions of the Ground Game Act, 1880, and the Ground Game (Amendment) Act, 1906. Game.

This section, which may not be contracted out of, is of considerable importance in the case of a "shooting" property,

Section 2. where the landlord desires to retain the shooting in his own hands.

The tenant is not entitled to compensation under this Section unless the damage exceeds in amount the sum of one shilling per acre of the area over which the damage extends.

Allowance by
landlord in
respect of
damage.

It is provided by sub-section (3) that where the landlord proves that under a contract of tenancy made before the commencement of this Act—*i.e.*, the 1st January, 1909 :—

Any compensation for damage by game is payable by him, or,

in fixing the rent, allowance to an agreed amount in respect of such damage was expressly made, the arbitrator shall make such deduction from the compensation that would otherwise be payable under this section as may appear just.

It therefore appears advisable, in cases where it is usual, in fixing the rent, to take into consideration possible damage by game, that express provision in accordance with the terms of this sub-section should be made in contracts of tenancy entered into before the 1st January, 1909, and that, in contracts of tenancy entered into after that date, a proportionate additional rent should be demanded.

Procedure.

In order to recover compensation under this section, the tenant must :—

- (a) give written notice of the damage to the landlord without unreasonable delay after he has first observed it.
- (b) give the landlord a reasonable opportunity to inspect the damage :—

if to a growing crop, before the crop is begun to be reaped, raised or fed.

if the crop is already reaped or raised when the damage is done, then before it is begun to be removed from the land.

(c) give the landlord written notice of his claim, and Section 2. particulars thereof, within one month after the expiration of the calendar year—or such other period of twelve months as may, by agreement, be substituted therefor.

Unless the parties are able, after the damage has been suffered, to agree upon the amount to be paid in respect thereof, this section makes it compulsory for such amount to be determined by arbitration.

Arbitration as to amount of damage.

In cases where the landlord lets the shooting, he is entitled to be indemnified by his shooting tenant against all claims for compensation under this section made by the tenant to whom he lets the holding.

Landlord to be indemnified by shooting tenant.

It is submitted that there is no need for the landlord to obtain a written indemnity from such shooting tenant, but that he is sufficiently protected by the words of Sub-section (4). The word “entitled” used in Sub-Section (1) clearly seems, of its own force, to give compensation to the tenant of the holding, and the same construction must be placed upon the word “entitled” in Sub-section (4).

Section 3 (1)

Freedom of
Cropping and
Disposal of
Produce.

3.—(1) Notwithstanding any custom of the country or the provisions of any contract of tenancy or agreement respecting the method of cropping of arable lands, or the disposal of crops, a tenant shall have full right to practise any system of cropping of the arable lands on his holding and to dispose of the produce of his holding without incurring any penalty, forfeiture or liability: Provided that he shall previously have made, or, as soon as may be, shall make, suitable and adequate provision to protect the holding from injury or deterioration, which provision shall in the case of disposal of the produce of the holding consist in the return to the holding of the full equivalent manurial value to the holding of all crops sold off or removed from the holding in contravention of the custom, contract, or agreement:

Provided that this sub-section shall not apply—

- (a) in the case of a tenancy from year to year, as respects the year before the tenant quits the holding or any period after he has given or received notice to quit which results in his quitting the holding; or
- (b) in any other case, as respects the year before the expiration of the contract of tenancy.

(2) If the tenant exercises his rights under this section in such a manner as to injure or

deteriorate the holding, or to be likely to injure or Section 3.
 deteriorate the holding, the landlord shall without
 prejudice to any other remedy which may be open
 to him be entitled to recover damages in respect of
 such injury or deterioration at any time, and, should
 the case so require, to obtain an injunction, or in
 Scotland an interdict, restraining the exercise of
 the rights under this section in that manner, and
 the amount of such damages may, in default of
 agreement, be determined by arbitration.

(3) A tenant shall not be entitled to any
 compensation in respect of improvements com-
 prised in Part III. of the First Schedule to the
 Agricultural Holdings Act, 1900, which have been
 made for the purpose of making such provision to
 protect the holding from injury or deterioration
 as is required by this section.

(4) In this section the expression "arable
 land" shall not include land in grass, which by
 the terms of any contract of tenancy is to be
 retained in the same condition throughout the
 tenancy.

The provisions of this section are extremely important, and
 should engage the serious attention of every landowner, more
 especially as the section is couched in somewhat vague and
 indefinite terms, and is not altogether easy to interpret.

Most agricultural leases and agreements contain covenants
 by the tenant as to the method of cropping, and the disposal
 of produce; but, despite such covenants, it is to be lawful,

Freedom of
 cropping and
 disposal of
 produce.

Section 3. after the 1st of January, 1909, for a tenant to follow any system of cropping that he thinks fit, and to sell off or dispose of any of the produce of his holding.

Protection of
landlord's
interests.

Provision, however, is made to protect the interests of the landlord: the tenant, either before, or without unreasonable delay after, ^(a) doing any of these acts, is to make "suitable and adequate provision" to protect the holding from injury or deterioration; and, in the event of the sale or removal of any crops in contravention of any custom, contract or agreement, such provision is to consist in the return to the holding of the full equivalent manurial value to the holding of the crops so sold or removed.

Full equivalent
manurial value
to the holding.

It should be noted that the "full equivalent manurial value to the holding" seems to imply something more than the mere manurial value of the crop.

In contraven-
tion of custom,
contract, or
agreement.

The words "in contravention of the custom, contract, or agreement" are important, as it would seem that, although no penalty, forfeiture or liability are to be incurred, yet, in the case of the disposal of produce, it is necessary, in order to obtain the benefit of the return to the holding of the full equivalent manurial value to the holding, that there should be a custom, contract, or agreement to be contravened.

It is not altogether clear, from the wording of the section, whether it is essential that there should be such a custom, contract or agreement in order that the landlord may obtain the benefit of "suitable and adequate provision" in the event of the tenant practising "any system of cropping," but it certainly appears safer that covenants as to the method of cropping should be inserted in the lease or agreement.

It must also be noted that sub-section (1) is not to apply during the periods specified in (a) and (b) thereof. The question,

(a) *Attwood v. Emery*, 1 C.B.N.S., 110, 113.

however, may arise whether, in the event of the hereinafter suggested system of tenancies for one year certain being adopted, the provisions of sub-section (1) will be held to be operative. In considering this question, it must be remembered that the court will, if it thinks that the intention is to defeat the spirit of the Act, if possible hold in favour of the said sub-section being applicable. ^(a) Section 3.

In view of the provisions of this section, it appears to be very advisable that what are to constitute "suitable and adequate provision," and "the full equivalent manurial value to the holding," should be made subjects of the contract of tenancy, and that a careful schedule should be drawn up, setting out in detail the several provisions to be made in the event of the tenant availing himself of the license afforded him by sub-section (1). This course seems to be fair and satisfactory to landlord and tenant alike. Both parties would know exactly how they stand: the tenant would fully understand and realise the extent and cost of the alternative cake or manures he would have to provide, while the landlord would—as he is entitled to—have a definite guarantee as to the maintenance of the fertility and cleanliness of his land. It must also be observed that the section refers to "all crops," and, in order to make the balance even, it may, in some cases, be deemed advisable to extend the category of crops which are not to be sold off or removed.

Alternative provision to be made by tenant should be defined.

It must be considered whether such an agreement, as has been suggested above, would be binding in law. It might be argued that a covenant *e.g.*, not to sell straw, but if the tenant does so, that he must provide so much cake to be fed on the holding is one whole and indivisible contract "respecting the disposal of crops," and that the tenant would be entitled to shelter himself behind those words of sub-section (1).

Will such agreement be binding.

(a) cf. 46 & 47 Vict. c. 61, s. 58.
Lockhart v Osborn, 36 Sol. J., 365.

Section 3.

It appears, however, more reasonable to suppose that the alternative provision would rather be regarded as being somewhat in the nature of liquidated damages, and that such an agreement would be upheld by the Court.^(a)

Section 6 of the Agricultural Holdings Act, 1900,—which provides that notwithstanding any provision in a contract of tenancy making the tenant liable to pay a higher rent, or other liquidated damages, in the event of the breach of any covenant therein contained, the landlord may, except in certain specified cases, only recover such sum as represents the actual damage suffered by him,—does not seem to stand in the way. By that Section the actual damage may be recovered and by Section 3 of this Act, it is not only incumbent upon the tenant to make the suitable and adequate provision therein mentioned, but damages in respect of injury or deterioration may be recovered at any time.

Course
suggested not
contrary to
spirit of Act.

The adoption of the course suggested does not seem to be in any way at variance with the spirit of the Section, and it would probably in any event prove of great practical utility. It will also be remembered that in the ascertainment of the amount of compensation payable to a tenant in respect of manures, there is not to be taken into account the value of the manure required by the contract of tenancy, or by custom, to be returned to the holding in respect of any crops sold off or removed from the holding within the last two years of the tenancy or other less time for which the tenancy has endured, not exceeding the value of the manure which would have produced by the consumption on the holding of the crops so sold off or removed.^(b)

(a) cf. *Richards v. Bluck*, 18 L.J.C.P. 15.
Smith v. Chance, 2 B & A. 753.

Lowdnes v. Fountain, 11 Ex. 487,

(b) 63 & 64 Vict. c. 50. s. 1. (4.)

As a further consequence of the provisions of this Section, **Section 3.** it seems to be a matter of considerable practical importance that the tenant should agree to keep—and to allow the landlord to inspect—a proper field book, and a record of his dealings with such of the produce of his holding as he is prohibited from disposing of, and of his purchases of the equivalents, and also of such other suitable and adequate provision as he has made.

Tenant should keep field book.

Sub-section (2) entitles the landlord (without prejudice to any other remedy which may be open to him), in the event of the tenant exercising his rights under this Section in such a manner as to, either actually or prospectively, injure or deteriorate the holding, to recover damages thereunto at any time: and, if needful, to obtain an injunction.^(a)

Landlord may recover damages and obtain injunction.

The amount of such damages may, if the parties fail to agree them, be determined by arbitration. In this case, arbitration appears to be permissive, and not compulsory.

It does not seem very clear what the measure of damages is to be—whether the actual amount of damage sustained at the time is to be recovered, or whether the general rule, which has for its basis loss to the reversion, is to prevail.^(b) The words of the Section that “the landlord shall, without prejudice to any other remedy which may be open to him, be entitled to recover damages in respect of such injury or deterioration at any time,” seem, however, to denote an intention that the landlord is to be entitled to recover an amount equal to the actual damage done.

Measure of damage.

Sub-section (3) safeguards the landlord from being subjected to a claim for compensation in respect of improve-

Limit on compensation.

- (a) cf. *Musgrave v. Horner*, 31 L.T. 632.
Phipps v. Jackson, 56 L.J.Ch. 550.
Crosse v. Duckers, 27 L.T. 816.
- (b) cf. *Doe v. Rowlands*, 9 C. & P. 734.
Conquest v. Ebbetts, 1896, A.C. 490, 494.

Section 3. ments comprised in Part III. of the First Schedule to the Agricultural Holdings Act, 1900, when such improvements have been made for the purpose of making the "suitable and adequate provision" aforesaid.^(a)

Grass land. Sub-section (4) preserves the right of the landlord to require the tenant to covenant not to plough up grass land.^(b)

(a) cf. 63 & 64 Vict. c. 50, s. 1 (4.)

(b) cf. 63 & 64 Vict. c. 50, s. 6.

Drury v. Molins, 6 Ves. 328.

Lord Grey de Wilton v. Saxon. 6 Ves. 106.

Aylet v. Dodd, 2 Atk. 239.

Woodward v. Gyles, 2 Vern. 119.

Carden v. Butler, Hay & J. 112.

4. Where the landlord, without good and sufficient cause, and for reasons inconsistent with good estate management, terminates a tenancy by notice to quit, or, after having been requested in writing, at least one year before the expiration of a tenancy, to grant a renewal thereof, refuses to do so, or where it has been proved that an increase of rent is demanded from the tenant, and that such increase was demanded by reason of an increase in the value of the holding due to improvements which have been executed by or at the cost of the tenant, and for which he has not, either directly or indirectly, received an equivalent from the landlord, and such demand results in the tenant quitting the holding, the tenant upon quitting the holding shall, in addition to the compensation (if any) to which he may be entitled in respect of improvements, and notwithstanding any agreement to the contrary, be entitled to compensation for the loss or expense directly attributable to his quitting the holding which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, or his implements of husbandry, produce, or farm stock, on or used in connection with the holding.

Section 4 (1)
Compensation
for
Unreasonable
Disturbance.

Provided that no compensation under this section shall be payable—

(a) unless the tenant has given to the landlord

Section 4.

- a reasonable opportunity of making a valuation of such goods, implements, produce, and stock as aforesaid; or
- b* unless the tenant has within two months after he has received notice to quit or a refusal to grant a renewal of the tenancy, as the case may be, given to the landlord notice in writing of his intention to claim compensation under this section; or
- c* where the tenant with whom a contract of tenancy was made has died within three months before the date of the notice to quit, or in the case of a lease for years before the refusal to grant a renewal; or
- d* if the claim for compensation is not made within three months after the time at which the tenant quits the holding.

In the event of any difference arising as to any matter under this section the difference shall, in default of agreement, be settled by arbitration.

Tenant may be entitled to compensation if landlord determines tenancy.

This Section is of very grave importance to landowners, and it must be remembered that this Act applies not only to agricultural holdings, but also to holdings which are cultivated wholly or mainly for "the purpose of the trade or business of market gardening."^(a)

It is provided that a landlord, who "without good and sufficient cause, and for reasons inconsistent with good estate management,"

(1) terminates a tenancy by notice to quit :

(a) cf. 46 & 47 Vict. c. 61, s. 54,
cf. 58 & 59 Vict. c. 27 s. 6.

(2) refuses to grant a renewal of a tenancy, after having been requested in writing—at least one year before the expiration thereof—to do so : Section 4.

(3) demands an increase of rent by reason of an increase in the value of the holding due to improvements which have been executed by, or at the cost of, the tenant, and for which he has not, either directly or indirectly, received an equivalent from the landlord—and such demand results in the tenant quitting the holding :

shall (in addition to any compensation for improvements), notwithstanding any agreement to the contrary, compensate the tenant for the loss or expense directly attributable to his quitting the holding which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, or his implements of husbandry, produce, or farm stock on, or used in connection with, the holding. In the event of any difference arising as to any matter under this section, the difference shall, in default of agreement (*i.e.*, of the difference) be settled by arbitration.

The wording of the section is extremely vague, and, apart from all other considerations, it seems very unsatisfactory that the question as to what constitutes “without good and sufficient cause, and for reasons inconsistent with good estate management” should have to be submitted to arbitration—and to a single arbitrator. This appears to be essentially a question for the court, which would probably, having regard to the fact that the section tends to interfere with freedom of contract, and the rights of property, be inclined to construe the words as favourably as possible to the landlord.

“Without good and sufficient cause and for reasons inconsistent with good estate management.”

It must, however, be observed that by rule 9 of Part I of the 2nd Schedule to the Agricultural Holdings Act, 1900, it is provided that the arbitrator may, and shall, if so directed by the Judge of a County Court (which direction may be given on

Section 4. the application of either party), state in the form of a special case for the opinion of that Court any question of law arising in the course of the arbitration : and by section 2, sub-section (6) of the same Act, provision is made for a final appeal to the Court of Appeal.^{a)}

A question of
law or of fact?

There does not appear to be any express authority to show whether this question is one of law or of fact, but from the somewhat conflicting authority that exists at all bearing on the point, ^(b) it seems permissible to think that it would be for the arbitrator to find as to the facts, and that the question as to whether the facts so found amount to an act "without good and sufficient cause and for reasons inconsistent with good estate management," within the meaning of the Statute, would be one of law.

Whether this section will be held to apply to existing leases which are still running at the date of the commencement of the Act ; and whether it will be incumbent on the landlord to grant a renewal of a lease on the same terms as were contained in the original lease, are questions which will probably have to be determined.

With regard to the Act applying to existing leases:—

Leases current
on 21st Dec.,
1906.

- (a) As to those already in existence on the 21st December, 1906, the date of the passing of this Act.

In an American case decided so long ago as 1811, it was said that an Act of the legislature ought never to be so construed as to do injustice : and that it was a principle of the English Common Law, as ancient as the Law itself, that a Statute, even of its omnipotent Parliament, was not to have a retrospec-

- (a) See R.S.C., O. 58. r. 20.
(b) cf. *Lister v. Perryman* L.R. 4, H.L. 521
West v. Baxendale 9 C.B. 141.
Thompson v. Farrer 9 Q.B.D. 372, 382, 385.
Howard v. Clarke 20 Q.B.D. 558, 561.
Hicks v. Faulkner 8 Q.B.D. 167, 172, 175.

tive effect. ^(a) Although, in view of the authorities, **Section 4.** this statement cannot be accepted in its entirety, yet it may fairly be argued that the Act is not to be construed retrospectively so as to affect agreements precedent to the date of its being passed, but that it only looks forward to, and provides for, the future ; and that such agreements will, therefore, not be affected by it. ^(b)

- (b) But as to those leases which are granted after the 21st December, 1906, but before the 1st January, 1909 —the date on which this Act comes into operation,— it may be said that such leases are made with full knowledge of the provisions of this Act, and in view thereof, and therefore that the Act will apply to them. ^(c)

Leases granted since 21st Dec. 1906.

With respect to the second question—whether it will be incumbent upon the landlord to grant a renewal ^(d) of the lease on the same terms as were contained in the original lease. ^(e)

Renewal of Lease. Must it be on same terms.

The price of wheat may rise, or other causes may operate to place the agricultural industry on a sounder and more profitable footing. Land, in consequence, may again have a more remunerative value to the owner ; and, at the expiration of a lease, he may be justly entitled to demand an increase of rent in the future. Will he, then, in the case of a renewal

- (a) *Dash v. Van Keeck*, 7 Johnson, 477, 502.
cf. *Gilmore v. Shuter*, 2 Mod. 310.
- (b) cf. *Ash v. Abdy*, 3 Swanst. 664.
Doe d. Evans v. Page, 5 Q. B. 767.
Ashburnham v. Bradshaw, 2 Atk. 36.
Page v. Bennett, 29 L.J. Ch. 398.
cf. 46 & 47 Vict., c. 61, ss. 61, 62.
- (c) cf. *Jones v. Ogle* L.R. 8 Ch. 192, 195.
Towler v. Chatterton, 6 Bing 258, 264.
ex. p. *Rashleigh*, In *re Dalzell* 2 Ch. Div. 9. 13.
Queen v. Leeds and Bradford Ry. Co., 18 Q.B. 343, 346.
- (d) cf. *Fitzsimmons v. Mostyn*, 1904 A.C. 46,
In *re Baylis*, 1907, 2 Ch. 54.
- (e) cf. *Lewis v. Stephenson*, 67 L.J.Q.B. 296.

Section 4. being requested, have to choose between losing this benefit, or paying the penalties imposed by this section ?

It may be argued in the landlord's favour that :—

- (1) the section does not expressly say that the lease is to be renewed on the same terms as before.
- (2) the section does expressly provide for the case in which the tenant quits his holding in consequence of a demand for an increase of rent under one specified set of circumstances : to wit, where it is proved that such increase is demanded by reason of an increase in the value of the holding due to improvements which have been executed by or at the cost of the tenant, and for which he has not, either directly or indirectly, received an equivalent from the landlord.

Some meaning must be given to this provision in order to render it intelligible, and it may be argued that it implies that an increase of rent may be demanded under any other circumstances than those specified.

By the same line of reasoning, it is also possible to argue that, in the case of tenancies from year to year, a notice to quit, which offers, as an alternative to quitting the holding, the acceptance of a higher rent,^(a) is not a notice to quit within the meaning of this section.

There may be cases in which it will be important to enquire whether every contract of tenancy falls within the scope of this section. A contract of tenancy which does not require, for its determination, a notice to quit, and with regard to which it is not possible for the tenant to demand a renewal at least one year before the expiration thereof, does not seem to be affected by the section.

(a) cf. *Ahearn v. Bellman* 4 Ex. Div. 212.

Section 4.

A tenancy for one year certain would appear to be such a contract:^(a) and if it should be desired to continue the tenancy for another year, a fresh agreement could be submitted to the tenant to sign before the termination of the tenancy under which he was then holding. This course would seem to only confer an *interesse termini* on the tenant during such time as the subsisting tenancy continued.^(b)

Tenancy for one year certain.

Whether a tenancy for a less period than from year to year is within the Agricultural Holdings Acts at all, is a doubtful point, and it does not seem safe to rely on the interpretations of "contract of tenancy," and "tenant," as given in Section 61 of the Agricultural Holdings Act, 1883. Judge Bagshawe, in 1892, decided that a tenancy for one year certain is a tenancy for a term of years within the meaning of the last-mentioned section, so as to give the tenant on quitting his holding at the determination of his tenancy a right to claim compensation under the Act.^(c) Lord Justice A. L. Smith, however, in 1897, said "It seems to me, speaking for myself, that the meaning of the Legislature was that a tenant should not be entitled to compensation under the Act if his tenancy was less than a tenancy from year to year."^(d)

In cases where it is desired, or not objected to, that the contract of tenancy should be by lease, there appears to be a method whereby the landlord can protect himself against the effects of this section. The section only covers the case of the landlord refusing to grant a renewal of a lease, and does not seem to affect the case of the tenant giving notice to quit, under the terms of an option so to do, at the end of a given period during the full term for which the lease is granted.^(e)

Lease containing option to break term.

(a) *Cobb v. Stokes* 8 East 358.

(b) *Doe v. Walker*, 5 B & C. 111.

Joyner v. Weeks, 1891, 2 Q.B. 31.

Smith v. Day, 2 M. & W. 694, 699.

Lewis v. Baker, 1905, 1 Ch. 46.

(c) *Lochhart v. Osborn*, 36 Sol J. 365, and see page 358.

(d) *King v. Eversfield*, 1897, 2 Q.B. 475, 479.

(e) cf. *Bevan v. Chambers*, 12 T.L.R., 417,
Blore v. Guilini, 1903, I.K.B., 356.

Section 4. A lease may be drawn in such a manner that the tenant may deem it expedient to exercise such option.

Suppose, for example, that the desire is to grant a lease for 14 years at a rental of £200 per annum. Let the lease be actually granted for 21 years, at a rental of £200 per annum for the first 14 years, and at a rental of £350 per annum for the remainder of the term. Give, in the lease, an option to the lessee (or to the lessor and lessee) to break the term, on giving six months' notice, at the end of the 14th year.

The tenant will, in all probability, exercise this option, by giving the necessary notice, and thus himself terminate the contract of tenancy at the date at which it was the real intention of the parties that the term should end. But if, on the other hand, the tenant does not elect to exercise such option, then the landlord will, by reason of the increased rent, be in a better position to meet the liability imposed upon him by this section.

If both parties then so desired, a fresh lease could be granted on terms to be arranged.

This proposed method will no doubt be criticised, and an answer thereto attempted; but in reply it can be pointed out that although the phrase "determination of a tenancy" is generally employed in these Acts, yet in this particular section the words "expiration of a tenancy" are used. It may therefore be argued that there is an intention that "determination" and "expiration" are to be construed differently, and that since "determination of tenancy" is expressly defined to mean "the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause,"^(a) "expiration of tenancy" must infer the actual date at which the lease—and the full term thereof—expires.

(a) 46 & 47 Vict. c. 61, s. 61.

Special care will, of course, be taken in drafting such a lease, which should contain a strict covenant on the part of the tenant not to sublet or assign: the advisability of reserving power to the landlord to resume on short notice a portion of the farm for building purposes, or for providing small holdings or allotments must also be considered. Section 4.

In many agricultural agreements, there is a stipulation that the tenant will, on a certain notice being given, give up any portion of the land he holds if it is required for building purposes. ^(a) A question may arise as to whether such a case can be brought within the operation of this section. It is provided by Section 41 of the Agricultural Holdings Act, 1883, that, where on a tenancy from year to year a notice to quit is given to a tenant, with a view to the purposes therein mentioned, ^(b) it shall be no objection to the notice that it relates to part only of the holding: but that the tenant may accept the same as a notice to quit the entire holding. Section 41, however, only appears to apply to a case in which there is no express provision in the contract of tenancy, and it would seem to be unduly straining that section to consider that it applies to a case in which such provision exists.

Agreement to give up land for building purposes.

If however,—when there is no such stipulation respecting the giving up of land for a specified purpose—a notice to quit is given under the said Section 41, and the tenant elects to accept the same as a notice to quit the entire holding, then the provisions of Section 4 of this Act may be held to apply.

In order to obtain the benefit of this section the tenant must:—

Procedure for tenant to observe.

- (a) give to the landlord, within two months after receiving notice to quit or a refusal to grant a renewal of the

(a) of. *English v. Tynemouth Corporation*, 67 J.P., 239.

Doe d. Wilson v. Abel, 2 M.S., 541.

Doe d. Willson v. Phillips, 2 Bing, 13.

(b) See also, 7 Edw. 7. c. 54., s. 38.

Section 4. tenancy, written notice of his intention to claim compensation.

(b) give to the landlord a reasonable opportunity of making a valuation of the goods and stock.

(c) make his claim within three months after quitting the holding.

But, from the wording of the section, it is not clear whether both conditions (a) and (b) must be fulfilled, or whether they are alternative.

Death of tenant: No compensation under this Section is payable where the tenant (with whom the contract of tenancy was made) has died within three months before the date of the notice to quit, or, in the case of a lease for years, before the refusal to grant a renewal thereof.

Thus it would appear that if a tenant who holds from year to year, dies, the landlord can, within three months from the date of death, give notice to quit to the personal representatives of the deceased, and will then be under no liability to pay compensation under this section.

It is submitted that the words, "within three months," only govern the case of the notice to quit, and do not apply in the case of a refusal to grant a renewal of a lease. If this interpretation is correct, then the landlord can refuse to grant a renewal—and be relieved from liability—if the tenant dies at any time before a request for renewal is refused.

No provision, however, seems to be made for the events of a tenant dying after a notice to quit has been given, or after a refusal to grant a renewal.

**Extent of land-
lord's liability.**

The landlord may enquire what will be his exact liability under this section.

It is not easy to precisely determine what is meant by "Compensation for the loss or expense directly attributable to

“his quitting the holding which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, or his implements of husbandry, produce or farm stock, on or used in connection with the holding.” Section 4.

In the event of a sale, is the amount of compensation payable to be based upon the difference (if any) between the amount realised thereby, and :— In event of a sale.

- (a) the amount of the valuation which the landlord—if he has exercised the right—has made ;
(The landlord's valuation will probably not agree with the tenant's : and “rings” at sales are not unknown) or,
- (b) the sum it will cost to replace the goods and stock afresh on another holding ; or,
- (c) the original price of the goods and stock, less the usual amount written off for depreciation.

And in the event of a removal, is the basis of compensation to be the cost of removal :— In event of a removal.

- (a) to the other end of England, Canada, or such other spot as the tenant may select ; or,
- (b) to the nearest holding available and reasonably suited for the tenant's business ; or,
- (c) merely from the holding into the road.

And, again, does “loss” refer only to “sale,” and “expense” only to “removal,” or are the terms interchangeable and cumulative ?

The field of inquiry is not yet exhausted, there are the terms “directly attributable,” “unavoidably,” and “in connection with,” to be construed.

A special case as to any question of law may indeed be stated ; but, nevertheless, the single arbitrator will need to be a capable man !

Section 5.

5. Section four of the Market Gardeners' Compensation Act, 1895, and Section four of the Market Gardeners' Compensation (Scotland) Act, 1897, shall apply to improvements executed before the dates of the commencement of those Acts respectively in like manner as the sections apply to improvements executed after those dates.

Retrospective effect of 58 & 59 Vict. c. 27, s. 4 & 60 & 61 Vict. c. 22.

Section four of the Market Gardeners' Compensation Act, 1895, deals with the application of that Act to tenancies current at the commencement thereof, but does not have a retrospective effect so as to enable a tenant to obtain compensation for improvements which he had made prior to the date of the commencement of that Act.^(a)

Improvements executed by market gardeners prior to 1st Jan., 1896.

This section, however, will, after the 1st January, 1909, enable a tenant to obtain compensation for certain improvements (set out in Part III. of the First Schedule to the Agricultural Holdings Act, 1900), which he had made prior to the 1st January, 1896, provided that the holding was at that date in use or cultivation as a market garden with the knowledge of the landlord, and the tenant had not, previously to the execution of such improvements, received the landlord's written dissent thereto.^(b)

Section Four of the Market Gardeners' Compensation Act, 1895, refers to "any of the improvements in respect of which a right of compensation or removal" is given by that Act, while Section Three thereof provides (*inter alia*) that the provisions of Section 34 of the Agricultural Holdings Act, 1883, shall extend to every fixture affixed by the tenant to or upon the holding for the purpose of his trade or business of a

(a) cf. *Mears v. Callendar*, 1901, 2 Ch. 388.

Smith v. Callendar 1901, A.C. 297.

(b) cf. 46 & 47 Vict. c. 61. s. 34.

58 & 59 Vict. c. 27. ss. 3, 4.

63 & 64 Vict. c. 50. 1st Schedule, Part iii. (27).

market gardener. The said Section 34 gives to the tenant a right of removal in respect of fixtures, but it is submitted that such fixtures are not improvements within the meaning of the Acts, and therefore do not come within the scope of the said Section 4. It must, however, be remembered that the "erection or enlargement of buildings for the purpose of the trade or business of a market gardener" is an improvement comprised in Part III. of the First Schedule to the Agricultural Holdings Act, 1900.

Section 5.

Section 6. **6.** The following improvements shall be included in Part III. of the First Schedule to the Agricultural Holdings Act, 1900 :—Repairs to buildings, being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to execute :

Consent of
landlord not
required for
certain
improvements.

Provided that the tenant, before beginning to execute any such repairs, shall give to the landlord notice in writing of his intention, together with particulars of such repairs, and shall not execute the repairs unless the landlord fails to execute them within a reasonable time after receiving such notice.

Repairs to
buildings;

By this section, repairs as therein specified are added to the list of improvements in respect of which the consent of the landlord is not required, and for which the tenant is entitled to compensation on quitting his holding. Notice of the intention to repair is to be given to the landlord, who can then carry out the repairs himself ; but cannot claim interest on the money he expends in so doing.

“ Buildings necessary for the proper cultivation or working of the holding,” is a vague phrase : it probably comprises farm buildings, cart sheds, and such like buildings, but may also be held to include cottages utilised for labourers working on the farm, and even the farm house itself.

Exception
thereto.

An exception is made, in the case of repairs which the tenant is himself under an obligation to execute, and this section may have the result that landowners may deem it

prudent to insist on the tenant agreeing to do all repairs to such buildings as are necessary for the proper cultivation or working of the holding. Section 6.

In connection with this section, it must be remembered, that in ascertaining the amount of compensation payable to the tenant, there must be taken into account any benefit which the landlord has given or allowed him in consideration of his executing the improvement.^(a) Therefore account must be taken of any materials, *e.g.*, timber in the rough, which the landlord may allow to the tenant in respect of repairs.

Benefit given by
landlord.

In the event of the tenant having to execute all repairs, the benefit he receives is in the form of the payment of a lower rent.

(a) 63 & 64 Vict. c. 50, s. 1 (3).

Section 7.

Record of
Holding.

7. If at the commencement of any tenancy entered into after the commencement of this Act either party so requires, a record of the condition of the buildings, fences, gates, roads, drains, ditches, and cultivation of the holding shall be made within three months after the commencement of the tenancy by a person to be appointed in default of agreement by the Board of Agriculture and Fisheries, and in default of agreement the cost of making such record shall be borne by the landlord and tenant in equal proportions.

In the case of any tenancy which is entered into after the 1st January, 1909, a record of the condition of the holding must be made if either landlord or tenant so demands. The demand for such record must be made at the commencement of the tenancy, and the record itself must be made within three months thereafter.

This section must therefore be borne in mind when making contracts of tenancy after the 1st January, 1909, and it would seem advisable that, when arranging the terms of such contracts, a person should be agreed upon to make the record referred to, in the event of the same being required; and that it should also be agreed that, if either party alone insists upon such record being made, such party alone should bear the whole cost thereof.

8. The enactments mentioned in the Schedule **Section 8.**
to this Act are hereby repealed to the extent Repeal.
specified in the third column of that Schedule.

The important proviso—that in estimating the value of improvements, there shall not be taken into account, as part of the improvement made by the tenant, what is justly due to the inherent capabilities of the soil—contained in sub-section (1) of section one of the Agricultural Holdings Act, 1900, is hereby repealed; so also are certain provisions (contained in the same Act) relating to arbitration; these latter alterations being necessitated by the provisions of this Act as to the determination by a single arbitrator of all matters referred to arbitration.

Section 9. **9.** This Act shall come into operation on the first day of January one thousand nine hundred and nine.

Commencement
of Act.

The Act comes into operation on the first day of January, 1909.

A period of
grace for the
landlord.

Thus a period of grace is given to the landlord, in which he can consider his position.

Conditions vary on different estates, and in different districts; there are practical questions to be carefully considered, and in order to arrive at the best conclusions, the value of local knowledge must not be under-estimated. It must also be remembered that anything which is done with regard to the provisions of this Act, must, if it is desired to retain the tenants, be such as will reasonably satisfy them.

The prudent landowner will utilise this period of grace in setting his house in order—he will take counsel with his estate agent, and he can seek legal and other expert advice.

He may deem it necessary to terminate existing tenancies, and offer to his tenants fresh agreements more suited to the changed condition of affairs.

He may deem it advisable to demand an increased rental by way of insurance against the liabilities imposed upon him.

In any event, he will bestow upon this Act his serious attention, and he will satisfy himself whether, and in what manner, it affects his own particular interests, and whether any, and what, steps should be taken to render his position more secure.

But, on the other hand, the delay in bringing this Act into operation gives time to forget.

Some landlords, indeed, may be content to leave things alone, and take the Act as it is, without further question or consideration. But other landlords may not realise its importance at all: they may go to sleep, and ignore it: but from sleep there comes an awakening—and the awakening may be rude. Section 9.

Section 10. **10.** This Act may be cited as the Agricultural Holdings Act, 1906, and shall be read and construed and may be cited with the Agricultural Holdings (England) Acts, 1883 to 1900, and the Agricultural Holdings (Scotland) Acts, 1883 to 1900.

Short title.

The Allotment and Cottage Garden Act, 1887.

The Allotments and Cottage Gardens Compensation for Crops Act, 1887, is not included in the designation The Agricultural Holdings (England) Acts, 1883 to 1900.^(a)

By that Act an allotment is defined to mean any parcel of land of not more than two acres in extent, held by a tenant under a landlord, and cultivated as a garden or as a farm, or partly as a garden and partly as a farm.^(b)

Holdings not exceeding two Acres in extent

Holdings not exceeding two acres in extent are not expressly excluded from the operation of the Agricultural Holdings Acts, 1883 to 1900. It may indeed be argued that the intention of Section 18 of the Allotments and Cottage Gardens Act is to create such an exclusion, but that section only provides that no claim for compensation shall be made under the Agricultural Holdings (England) Act, 1883, for any matter or thing in respect of which a claim for compensation is made under that Act, and that in any case in which the provisions of the two Acts conflict, the provisions of that Act shall prevail.^(c)

The Agricultural Holdings Act, 1906, introduces provisions of an entirely new character, and there seems to be no reason to suppose that, in respect of these, holdings not exceeding two acres in extent are excluded from its operation.

(a) cf. 63 & 64 Vict. c. 50. s. 14 (2).

(b) 50 & 51 Vict. c. 26. s. 4.

(c) See also 7 Edw. 7. c. 54. ss. 21, 35 (3).

SCHEDULE.

ENACTMENTS REPEALED. Section 8.

Session and Chapter.	Short Title.	Extent of Repeal.
40 & 41 Vict. c. 28.	The Game Laws Amendment (Scotland), Act, 1877.	The whole Act, except Sections one, ten, and eleven, and the definition of sheriff in Section three.
63 & 64 Vict. c. 50.	The Agricultural Holdings Act, 1900.	Sub-section (1) of Section one. In Section two, the words "by arbitration in accordance with the provisions (if any) in that behalf in any agreement between landlord and tenant, and in default of and subject to any such provisions"; the words "or arbitrators"; the words "An arbitration shall, unless the parties otherwise agree, be before a single arbitrator"; the words "or umpire"; and the words "subject to any provision contained in any agreement between landlord and tenant." Second Schedule, Part II.

PART IV.

APPENDIX.

AN ACT for amending the Law relating to Agricultural Holdings in England. [25th August, 1883.]

46 & 47 Vict. cap. 61.

BE it enacted as follows :

(NOTE.—*The portions repealed are printed in small type*).

PART I.

IMPROVEMENTS.

Compensation for Improvements.

General right of
tenant to
compensation.

1. Subject as in this Act mentioned, where a tenant has made on his holding any improvement comprised in the First Schedule hereto, he shall, on and after the commencement of this Act, be entitled on quitting his holding at the termination of a tenancy to obtain from the landlord as compensation under this Act for such improvement such sum as fairly represents the value of the improvement to an incoming tenant: Provided always, that in estimating the value of any improvement in the First Schedule hereto there shall not be taken into account as part of the improvement made by the tenant what is justly due to the inherent capabilities of the soil.

As to Improvements executed before the commencement of Act.

Restriction as to
improvements
before Act.

2. Compensation under this Act shall not be payable in respect of improvements executed before the commencement of this Act, with the exceptions following, that—

- (1.) Where a tenant has within ten years before the commencement of this Act made an improvement mentioned in the third part of the First Schedule hereto, and he is not entitled under any contract, or custom, or under the Agricultural Holdings (England) Act, 1875, to compensation in respect of such improvement; or ^{38 & 39 Vict. c. 92.}

- (2.) Where a tenant has executed an improvement mentioned in the first or second part of the said First Schedule within ten years previous to the commencement of this Act, and he is not entitled under any contract, or custom, or under the Agricultural Holdings (England) Act, 1875, to compensation in respect of such improvement, and the landlord within one year after the commencement of this Act declares in writing his consent to the making of such improvement, then such tenant on quitting his holding at the determination of a tenancy after the commencement of this Act may claim compensation under this Act in respect of such improvement in the same manner as if this Act had been in force at the time of the execution of such improvement.

*As to Improvements executed after the Commencement
of Act.*

Consent of
landlord as to
improvements
in First
Schedule,
Part I.

3. Compensation under this Act shall not be payable in respect of any improvement mentioned in the first part of the First Schedule hereto, and executed after the commencement of this Act, unless the landlord, or his agent duly authorised in that behalf, has, previously to the execution of the improvement and after the passing of this Act, consented in writing to the making of such improvement, and any such consent may be given by the landlord unconditionally, or upon such terms as to compensation, or otherwise, as may be agreed upon between the landlord and the tenant, and in the event of any agreement being made between the landlord and the tenant, any compensation payable thereunder shall be deemed to be substituted for compensation under this Act.

Notice to land-
lord as to im-
provements in
First Schedule,
Part II.

4. Compensation under this Act shall not be payable in respect of any improvement mentioned in the second part of the First Schedule hereto, and executed after the commencement of this Act, unless the tenant has, not more than three months and not less than two months before beginning to execute such improvement, given to the landlord, or his agent duly authorised in that behalf, notice in writing of his intention so to do, and of the manner in which he proposes to do the intended

work, and upon such notice being given, the landlord and tenant may agree on the terms as to compensation or otherwise on which the improvement is to be executed, and in the event of any such agreement being made, any compensation payable thereunder shall be deemed to be substituted for compensation under this Act, or the landlord may, unless the notice of the tenant is previously withdrawn, undertake to execute the improvement himself, and may execute the same in any reasonable and proper manner which he thinks fit, and charge the tenant with a sum not exceeding five pounds per centum per annum on the outlay incurred in executing the improvement, or not exceeding such annual sum payable for a period of twenty-five years as will repay such outlay in the said period, with interest at the rate of three per centum per annum, such annual sum to be recoverable as rent. In default of any such agreement or undertaking, and also in the event of the landlord failing to comply with his undertaking within a reasonable time, the tenant may execute the improvement himself, and shall in respect thereof be entitled to compensation under this Act.

The landlord and tenant may, if they think fit, dispense with any notice under this section, and come to an agreement in a lease, or otherwise between themselves in the same manner and of the same validity as if such notice had been given.

Reservation as to existing and future contract of tenancy.

5. Where, in the case of a tenancy under a contract of tenancy current at the commencement of this Act, any agreement in writing or custom, or the Agricultural Holdings (England) Act, 1875, provides specific compensation for any improvement comprised in the First Schedule hereto, compensation in respect of such improvement, although executed after the commencement of this Act, shall be payable in pursuance of such agreement, custom, or Act of Parliament, and shall be deemed to be substituted for compensation under this Act.

Where in the case of a tenancy under a contract of tenancy beginning after the commencement of this Act, any particular agreement in writing secures to the tenant for any improvement mentioned in the third part of the First Schedule hereto, and executed after the commencement of this Act, fair and reasonable compensation, having regard to the circumstances existing at the time of making such agreement, then in such case the compensation in respect of such improvement shall be payable in pursuance of the particular agreement, and shall be deemed to be substituted for compensation under this Act.

The last preceding provision of this section relating to a particular agreement shall apply in the case of a tenancy under a contract of tenancy current at the commencement of this Act in

respect of an improvement mentioned in the third part of the First Schedule hereto, specific compensation for which is not provided by any agreement in writing, or custom, or the Agricultural Holdings Act, 1875.

Regulations as to Compensation for Improvements.

6. In the ascertainment of the amount of the compensation under this Act payable to the tenant in respect of any improvement there shall be taken into account in reduction thereof:

Regulations as to compensation for improvements.

- (a) Any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement; and
- (b) In the case of compensation for manures the value of the manure that would have been produced by the consumption on the holding of any hay, straw, roots, or green crops sold off or removed from the holding within the last two years of the tenancy or other less time for which the tenancy has endured, except as far as a proper return of manure to the holding has been made in respect of such produce so sold off or removed therefrom; and
- (c) Any sums due to the landlord in respect of rent or in respect of any waste committed or permitted by the tenant, or in respect of any breach of covenant or other agreement connected with the contract of tenancy committed by the tenant, also any taxes, rates, and tithe rent charge due or becoming due in respect of the holding to which the tenant is liable as between him and the landlord.

There shall be taken into account in augmentation of the tenant's compensation—

- (d) Any sum due to the tenant for compensation in respect of a breach of covenant or other agreement connected with a contract of tenancy and committed by the landlord.

Nothing in this section shall enable a landlord to obtain under this Act compensation in respect of waste by the tenant or of breach by the tenant committed or permitted in relation to a matter of husbandry more than four years before the determination of the tenancy.

Procedure.

Notice of
intended claim.

7. A tenant claiming compensation under this Act shall, two months at least before the determination of the tenancy, give notice in writing to the landlord of his intention to make such claim.

Where a tenant gives such notice, the landlord may, before the determination of the tenancy, or within fourteen days thereafter, give a counter-notice in writing to the tenant of his intention to make a claim in respect of any waste or any breach of covenant or other agreement.

Every such notice and counter-notice shall state, as far as reasonably may be, the particulars and amount of the intended claim.

Compensation
agreed
or settled by
reference.

8. The landlord and the tenant may agree on the amount and mode and time of payment of compensation to be paid under this Act.

If in any case they do not so agree the difference shall be settled by a reference.

Appointment of
referee or
referees and
umpire.

9. Where there is a reference under this Act, a referee, or two referees and an umpire, shall be appointed as follows:

- (1.) If the parties concur, there may be a single referee appointed by them jointly:

- (2.) If before award the single referee dies or becomes incapable of acting, or for seven days after notice from the parties, or either of them, requiring him to act, fails to act, the proceedings shall begin afresh, as if no referee had been appointed :
- (3.) If the parties do not concur in the appointment of a single referee, each of them shall appoint a referee :
- (4.) If before award one of two referees dies or becomes incapable of acting, or for seven days after notice from either party requiring him to act, fails to act, the party appointing him shall appoint another referee.
- (5.) Notice of every appointment of a referee by either party shall be given to the other party :
- (6.) If for fourteen days after notice by one party to the other to appoint a referee, or another referee, the other party fails to do so, then, on the application of the party giving notice, the county court shall within fourteen days appoint a competent and impartial person to be a referee:
- (7.) Where two referees are appointed, then (subject to the provisions of this Act) they shall before they enter on the reference appoint an umpire :
- (8.) If before award an umpire dies or becomes incapable of acting, the referees shall appoint another umpire :
- (9.) If for seven days after request from either party the referees fail to appoint an umpire, or another umpire, then, on the application of either party, the county court shall within fourteen days appoint a competent and impartial person to be the umpire :
- (10.) Every appointment, notice, and request under this section shall be in writing.

10. Provided that, where two referees are appointed, an umpire may be appointed as follows :

- (1.) If either party, on appointing a referee, requires, by notice in writing to the other, that the umpire shall be

Requisition for
appointment of
umpire by Land
Commissioners,
&c.

THE AGRICULTURAL HOLDINGS ACT, 1883.

appointed by the Land Commissioners for England, then the umpire, and any successor to him, shall be appointed on the application of either party, by those commissioners.

- (2.) In every other case, if either party on appointing a referee requires, by notice in writing to the other, that the umpire shall be appointed by the county court, then, unless the other party dissents by notice in writing therefrom, the umpire, and any successor to him, shall on the application of either party be so appointed, and in case of such dissent the umpire, and any successor to him, shall be appointed, on the application of either party, by the Land Commissioners for England.

Exercise of
powers of
County court.

11. The powers of the county court under this Act relative to the appointment of a referee or umpire shall be exercisable by the judge of the court having jurisdiction, whether he is without or within his district, and may, by consent of the parties, be exercised by the registrar of the court.

Mode of sub-
mission to
reference.

12. The delivery to a referee of his appointment shall be deemed a submission to a reference by the party delivering it ; and neither party shall have power to revoke a submission, or the appointment of a referee, without the consent of the other.

Power for
referee, &c. to
require produc-
tion of docu-
ments,
administer
oaths, &c.

13. The referee or referees or umpire may call for the production of any sample, or voucher, or other document, or other evidence which is in the possession or power of either party, or which either party can produce, and which to the referee or referees or umpire seems necessary for determination of the matters referred, and may take the examination of the parties and witnesses on oath, and may administer oaths and take affirmations ; and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury.

14. The referee or referees or umpire may proceed in the absence of either party where the same appears to him or them expedient, after notice given to the parties.

Power to proceed in absence.

15. The award shall be in writing, signed by the referee or referees or umpire.

Form of award.

16. A single referee shall make his award ready for delivery within twenty-eight days after his appointment.

Time for award of referee or referees.

Two referees shall make their award ready for delivery within twenty-eight days after the appointment of the last appointed of them, or within such extended time (if any) as they from time to time jointly fix by writing under their hands, so that they make their award ready for delivery within a time not exceeding in the whole forty-nine days after the appointment of the last appointed of them.

17. In any case provided by sections three, four, or five, if compensation is claimed under this Act, such compensation as under any of those sections is to be deemed to be substituted for compensation under this Act, if and so far as the same can, consistently with the terms of the agreement, if any, be ascertained by the referees or the umpire, shall be awarded in respect of any improvements thereby provided for, and the award shall, when necessary, distinguish such improvements and the amount awarded in respect thereof; and an award given under this section shall be subject to the appeal provided by this Act.

Award in respect of compensation under ss. 3, 4, and 5.

18. Where two referees are appointed and act, if they fail to make their award ready for delivery within the time aforesaid, then, on the expiration of that time, their authority shall

Reference to and award by Umpire.

cease, and thereupon the matters referred to them shall stand referred to the umpire.

The umpire shall make his award ready for delivery within twenty-eight days after notice in writing given to him by either party or referee of the reference to him, or within such extended time (if any) as the registrar of the county court from time to time appoints, on the application of the umpire or of either party, made before the expiration of the time appointed by or extended under this section.

Award to give particulars.

19. The award shall not award a sum generally for compensation, but shall, so far as possible, specify—

- (a) The several improvements, acts, and things in respect whereof compensation is awarded, and the several matters and things taken into account under the provisions of this Act in reduction or augmentation of such compensation ;
- (b) The time at which each improvement, act, or thing was executed, done, committed, or permitted ;
- (c) The sum awarded in respect of each improvement, act, matter, and thing ; and
- (d) Where the landlord desires to charge his estate with the amount of compensation found due to the tenant, the time at which, for the purposes of such charge, each improvement, act, or thing in respect of which compensation is awarded is to be deemed to be exhausted.

Costs of reference.

20. The costs of and attending the reference, including the remuneration of the referee or referees, and umpire, where the umpire has been required to act, and including other proper expenses, shall be borne and paid by the parties in such proportion as to the referee or referees or umpire appears just, regard being had to the reasonableness or unreasonable-

ness of the claim of either party in respect of amount, or otherwise, and to all the circumstances of the case.

The award may direct the payment of the whole or any part of the cost aforesaid by the one party to the other.

The cost aforesaid shall be subject to taxation by the registrar of the county court, on the application of either party, but that taxation shall be subject to review by the judge of the county court.

21. The award shall fix a day, not sooner than one month after the delivery of the award, for the payment of money awarded for compensation, costs, or otherwise. Day for payment.

22. A submission or award shall not be made a rule of any court, or be removable by any process into any court, and an award shall not be questioned otherwise than as provided by this Act. Submission not to be removable, &c.

23. Where the sum claimed for compensation exceeds one hundred pounds, either party may, within seven days after delivery of the award, appeal against it to the judge of the county court on all or any of the following grounds : Appeal to county court.

1. That the award is invalid ;
2. That the award proceeds wholly or in part upon an improper application of or upon the omission properly to apply the special provisions of sections three, four, or five of this Act ;
3. That compensation has been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was not entitled to compensation ;

4. That compensation has not been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was entitled to compensation ;

and the judge shall hear and determine the appeal, and may, in his discretion, remit the case to be reheard as to the whole or any part thereof by the referee or referees or umpire, with such directions as he may think fit.

If no appeal is so brought, the award shall be final.

The decision of the judge of the county court on appeal shall be final, save that the judge shall, at the request of either party, state a special case on a question of law for the judgment of the High Court of Justice, and the decision of the High Court on the case, and respecting costs and any other matter connected therewith, shall be final, and the judge of the county court shall act thereon.

Recovery of
compensation.

24. Where any money agreed or awarded or ordered on appeal to be paid for compensation, costs, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded or ordered to be paid, it shall be recoverable, upon order made by the judge of the county court, as money ordered by a county court under its ordinary jurisdiction to be paid is recoverable.

Appointment
of guardian.

25. Where a landlord or tenant is an infant without a guardian, or is of unsound mind, not so found by inquisition, the county court, on the application of any person interested, may appoint

a guardian of the infant or person of unsound mind for the purposes of this Act, and may change the guardian if and as occasion requires.

26. Where the appointment of a person to act as the next friend of a married woman is required for the purposes of this Act, the county court may make such appointment, and may remove or change that next friend if and as occasion requires.

Provisions
respecting
married women.

A woman married before the commencement of the Married Women's Property Act, 1882, entitled for her separate use to land, her title to which accrued before such commencement as aforesaid, and not restrained from anticipation, shall, for the purposes of this Act, be in respect of land as if she was unmarried.

45 & 46 Vict. c.
75.

Where any other woman married before the commencement of the Married Women's Property Act, 1882, is desirous of doing any act under this Act in respect of land, her title to which accrued before such commencement as aforesaid, her husband's concurrence shall be requisite, and she shall be examined apart from him by the county court, or by the judge of the county court for the place where she for the time being is, touching her knowledge of the nature and effect of the intended act, and it shall be ascertained that she is acting freely and voluntarily.

Costs in
county court

27. The costs of proceedings in the county court under this Act shall be in the discretion of the court.

The Lord Chancellor may from time to time prescribe a scale of costs for those proceedings, and of costs to be taxed by the registrar of the court.

Service of
notice, &c.

28. Any notice, request, demand, or other instrument under this Act may be served on the person to whom it is to be given, either personally or by leaving it for him at his last known place of abode in England, or by sending it through the post in a registered letter addressed to him there; and if so sent by post it shall be deemed to have been served at the time when the letter containing it would be delivered in ordinary course; and in order to prove service by letter it shall be sufficient to prove that the letter was properly addressed and posted, and that it contained the notice, request, demand, or other instrument to be served.

Charge of Tenant's Compensation.

Power for
landlord on
paying compen-
sation to obtain
charge.

29. A landlord, on paying to the tenant the amount due to him in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, or on expending such amount as may be necessary to execute an improvement under the second part of the First

Schedule hereto, after notice given by the tenant of his intention to execute such improvement in accordance with this Act, shall be entitled to obtain from the county court^(a) a charge on the holding, or any part thereof, to the amount of the sum so paid or expended.

The court shall, on proof of the payment or expenditure, and on being satisfied of the observance in good faith by the parties of the conditions imposed by this Act, make an order charging the holding, or any part thereof, with repayment of the amount paid or expended, with such interest, and by such instalments, and with such directions for giving effect to the charge, as the court thinks fit.

But where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect whereof compensation is paid will, where an award has been made, be taken to have been exhausted according to the declaration of the award, and in any other case after the time when any such improvement will in the opinion of the court, after hearing such evidence, if any, as it thinks expedient, have become exhausted.

The instalments and interest shall be charged in favour of the landlord, his executors, administrators and assigns.

(a) Now the Board of Agriculture and Fisheries.

The estate or interest of any landlord holding for an estate or interest determinable or liable to forfeiture by reason of his creating or suffering any charge thereon shall not be determined or forfeited by reason of his obtaining a charge under this Act, anything in any deed, will, or other instrument to the contrary thereof notwithstanding.

45 & 46 Vict. c.
98.

Capital money arising under the Settled Land Act, 1882, may be applied in payment of any moneys expended and costs incurred by a landlord under or in pursuance of this Act in or about the execution of any improvement mentioned in the first or second parts of the Schedule hereto, as for an improvement authorised by the said Settled Land Act; and such money may also be applied in discharge of any charge created on a holding under or in pursuance of this Act in respect of any such improvement as aforesaid, as in discharge of an incumbrance authorised by the said Settled Land Act to be discharged out of such capital money.

Incidence of
charge.

30. The sum charged by the order of a county court^(a) under this Act shall be a charge on the holding, or the part thereof charged, for the landlord's interest therein, and for all interests therein subsequent to that of the landlord; but so that the charge shall not extend beyond the interest of the landlord, his executors, administrators, and assigns, in the tenancy where the landlord is himself a tenant of the holding.

(a) Now the Board of Agriculture and Fisheries.

31. Where the landlord is a person entitled to receive the rents and profits of any holding as trustee, or in any character otherwise than for his own benefit, the amount due from such landlord in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, shall be charged and recovered as follows and not otherwise; (that is to say),

Provision in
case of trustee.

- (1.) The amount so due shall not be recoverable personally against such landlord, nor shall he be under any liability to pay such amount, but the same shall be a charge on and recoverable against the holding only.
- (2.) Such landlord shall, either before or after having paid to the tenant the amount due to him, be entitled to obtain from the county court^(a) a charge on the holding to the amount of the sum required to be paid or which has been paid, as the case may be, to the tenant.
- (3.) If such landlord neglect or fail within one month after the tenant has quitted his holding to pay to the tenant the amount due to him, then after the expiration of such one month the tenant shall be entitled to obtain from the county court in favour of himself, his executors, administrators, and assigns, a charge on the

(a) Now the Board of Agriculture and Fisheries.

holding to the amount of the sum due to him, and of all costs properly incurred by him in obtaining the charge or in raising the amount due thereunder.

- (4.) The court shall on proof of the tenant's title to have a charge made in his favour make an order charging the holding with payment of the amount of the charge, including costs, in like manner and form as in case of a charge which a landlord is entitled to obtain.

Advance made
by a company.

32. Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by a county court^(a) under the provisions of this Act, upon such terms and conditions as may be agreed upon between such company and the person entitled to such charge; and such company may assign any charge so acquired by them to any person or persons whomsoever.

Notice to Quit.

Time of notice
to quit.

33. Where a half-year's notice, expiring with a year of tenancy is by law necessary and sufficient for determination of a tenancy from year to year, in the case of any such tenancy under a contract of tenancy made either before or after the commencement of this Act, a year's notice so expiring shall

(a) Now the Board of Agriculture and Fisheries.

by virtue of this Act be necessary and sufficient for the same, unless the landlord and tenant of the holding, by writing under their hands, agree that this section shall not apply, in which case a half year's notice shall continue to be sufficient; but nothing in this section shall extend to a case where the tenant is adjudged bankrupt, or has filed a petition for a composition or arrangement with his creditors.

Fixtures.

34. Where after the commencement of this Act a tenant affixes to his holding any engine, machinery, fencing, or other fixture, or erects any building for which he is not under this Act or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, then such fixture or building shall be the property of and be removable by the tenant before or within a reasonable time after the termination of the tenancy.

Tenant's
property in
fixtures,
machinery, &c.

Provided as follows :—

1. Before the removal of any fixture or building the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect to the holding:

2. In the removal of any fixture or building the tenant shall not do any avoidable damage to any other building or other part of the holding :
3. Immediately after the removal of any fixture or building the tenant shall make good all damage occasioned to any other building or other part of the holding by the removal :
4. The tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of the intention of the tenant to remove it :
5. At any time before the expiration of the notice of removal the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture or building comprised in the notice of removal, and any fixture or building thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding ; and any difference as to the value shall be settled by a reference under this Act, as in case of compensation but without appeal.

Crown and Duchy Lands.

35. This Act shall extend and apply to land belonging to Her Majesty the Queen, her heirs and successors, in right of the Crown.

Application of
Act to Crown
lands.

With respect to such land, for the purposes of this Act, the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or one of them, or other the proper officer or body having charge of such land for the time being, or in case there is no such officer or body, then such person as Her Majesty, her heirs or successors, may appoint in writing under the Royal Sign Manual, shall represent Her Majesty, her heirs and successors, and shall be deemed to be the landlord.

Any compensation payable under this Act by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, in respect of an improvement mentioned in the first or second part of the First Schedule hereto, shall be deemed to be payable in respect of an improvement of land within section one of the Crown Lands Act, 1863, and the amount thereof shall be charged and repaid as in that section provided with respect to the costs, charges, and expenses therein mentioned.

Any compensation payable under this Act by those Commissioners, or either of them, in respect

of an improvement mentioned in the third part of the First Schedule hereto, shall be deemed to be part of the expenses of the management of the Land Revenues of the Crown, and shall be payable to those Commissioners out of such money and in such manner as the last-mentioned expenses are by law payable.

Application of
Act to land of
Duchy of
Lancaster.

36. This Act shall extend and apply to land belonging to Her Majesty, her heirs and successors, in right of the Duchy of Lancaster.

With respect to such land for the purposes of this Act, the Chancellor for the time being of the Duchy shall represent Her Majesty, her heirs and successors, and shall be deemed to be the landlord.

The amount of any compensation payable under this Act by the Chancellor of the Duchy in respect of an improvement mentioned in the first or second part of the First Schedule to this Act shall be deemed to be an expense incurred in improvement of land belonging to Her Majesty, her heirs or successors, in right of the Duchy, within section twenty-five of the Act of the fifty-seventh year of King George the Third, chapter ninety-seven, and shall be raised and paid as in that section provided with respect to the expenses therein mentioned.

The amount of any compensation payable under this Act by the Chancellor of the Duchy in respect

of an improvement mentioned in the third part of the First Schedule to this Act shall be paid out of the annual revenues of the Duchy.

37. This Act shall extend and apply to land belonging to the Duchy of Cornwall.

*Application of
Act to land of
Duchy of
Cornwall.*

With respect to such land, for the purposes of this Act, such person as the Duke of Cornwall for the time being, or other the personage for the time being entitled to the revenues and possessions of the Duchy of Cornwall, from time to time, by sign manual warrant, or otherwise, appoints, shall represents the Duke of Cornwall or other the personage aforesaid, and be deemed to be the landlord, and may do any act or thing under this Act which a landlord is authorised or required to do thereunder.

Any compensation payable under this Act by the Duke of Cornwall, or other personage aforesaid, in respect of any improvement mentioned in the first or second part of the First Schedule to this Act shall be deemed to be payable in respect of an improvement of land within section eight of the Duchy of Cornwall Management Act, 1863, and the amount thereof may be advanced and paid from the money mentioned in that section, subject to the provision therein made for repayment of sums advanced for improvements.

*26 & 27 Vict.
c. 49.*

Ecclesiastical and Charity Lands.

Landlord,
archbishop
or bishop.

38. Where lands are assigned or secured as the endowment of a see, the powers by this Act conferred on a landlord shall not be exercised by the archbishop or bishop, in respect of those lands, except with the previous approval in writing of the Estates Committee of the Ecclesiastical Commissioners for England.

Landlord,
incumbent
of benefice.

39. Where a landlord is incumbent of an ecclesiastical benefice, the powers by this Act conferred on a landlord shall not be exercised by him in respect of the glebe land or other land belonging to the benefice, except with the previous approval in writing of the patron of the benefice, that is, the person, officer, or authority who, in case the benefice were vacant, would be entitled to present thereto, or of the Governors of Queen Anne's Bounty (that is, the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy).

In every such case the Governors of Queen Anne's Bounty may, if they think fit, on behalf of the incumbent, out of any money in their hands, pay to the tenant the amount of compensation due to him under this Act; and thereupon they may, instead of the incumbent, obtain from the county court^(a) a charge on the holding, in respect thereof, in favour of themselves.

(a) The Board of Agriculture and Fisheries.

Every such charge shall be effectual, notwithstanding any change of the incumbent.

40. The powers by this Act conferred on a landlord in respect of charging the land shall not be exercised by trustees for ecclesiastical or charitable purposes, except with the previous approval in writing of the Charity Commissioners for England and Wales.

Landlord,
charity
trustees, &c.

Resumption for Improvements, and Miscellaneous.

41. Where on a tenancy from year to year a notice to quit is given by the landlord with a view to the use of land for any of the following purposes:^(a)

Resumption
of possession
for cottages,
&c.

The erection of farm labourers cottages or other houses, with or without gardens ;

The providing of gardens for existing farm labourers cottages or other houses ;

The allotment for labourers of land for gardens or other purposes ;

The planting of trees ;

The opening or working of any coal, ironstone, limestone, or other mineral, or of a stone quarry, clay, sand, or gravel pit, or the construction of any works or buildings to be used in connexion therewith ;

The obtaining of brick earth, gravel, or sand ;

The making of a watercourse or reservoir ;

(a) See 7 Edw. 7. c 54. 5. 38.

The making of any road, railway, tramroad, siding, canal, or basin, or any wharf, pier, or other work connected therewith ; and the notice to quit so states, then it shall, by virtue of this Act, be no objection to the notice that it relates to part only of the holding.

In every such case the provisions of this Act respecting compensation shall apply as on determination of a tenancy in respect of an entire holding.

The tenant shall also be entitled to a proportionate reduction of rent in respect of the land comprised in the notice to quit, and in respect of any depreciation of the value to him of the residue of the holding, caused by the withdrawal of that land from the holding or by the use to be made thereof, and the amount of that reduction shall be ascertained by agreement or settled by a reference under this Act, as in case of compensation (but without appeal).

The tenant shall further be entitled, at any time within twenty-eight days after service of the notice to quit, to serve on the landlord a notice in writing to the effect that he (the tenant) accepts the same as a notice to quit the entire holding, to take effect at the expiration of the then current year of tenancy ; and the notice to quit shall have effect accordingly.

42. Subject to the provisions of this Act in relation to Crown, duchy, ecclesiastical, and charity lands, a landlord, whatever may be his estate or interest in his holding, may give any consent, make any agreement, or do or have done to him any act in relation to improvements in respect of which compensation is payable under this Act which he might give or make or do or have done to him if he were in the case of an estate of inheritance owner thereof in fee, and in the case of a leasehold possessed of the whole estate in the leasehold.

Provision as to limited owners.

43. When, by any Act of Parliament, deed, or other instrument, a lease of a holding is authorised to be made, provided that the best rent, or reservation in the nature of rent, is by such lease reserved, then, whenever any lease of a holding is, under such authority, made to the tenant of the same, it shall not be necessary, in estimating such rent or reservation, to take into account against the tenant the increase (if any) in the value of such holding arising from any improvements made or paid for by him on such holding.

Provision in case of reservation of rent.

PART II.

Distress.

Limitation
of distress
in respect of
amount and
time.

44. After the commencement of this Act it shall not be lawful for any landlord entitled to the rent of any holding to which this Act applies to distrain for rent, which became due in respect of such holding, more than one year before the making of such distress, except in the case of arrears of rent in respect of a holding to which this Act applies existing at the time of the passing of this Act, which arrears shall be recoverable by distress up to the first day of January one thousand eight hundred and eighty-five to the same extent as if this Act had not passed.

Provided that where it appears that according to the ordinary course of dealing between the landlord and tenant of a holding the payment of the rent of such holding has been allowed to be deferred until the expiration of a quarter of a year or half a year after the date at which such rent legally became due, then for the purpose of this section the rent of such holding shall be deemed to have become due at the expiration of such quarter or half-year as aforesaid, as the case may be, and not at the date at which it legally became due.

45. Where live stock belonging to another person has been taken in by the tenant of a holding to which this Act applies to be fed at a fair price agreed to be paid for such feeding by the owner of such stock to the tenant, such stock shall not be distrained by the landlord for rent where there is other sufficient distress to be found, and if so distrained by reason of other sufficient distress not being found, there shall not be recovered by such distress a sum exceeding the amount of the price so agreed to be paid for the feeding, or if any part of such price has been paid exceeding the amount remaining unpaid, and it shall be lawful for the owner of such stock, at any time before it is sold, to redeem such stock by paying to the distrainer a sum equal to such price as aforesaid, and any payment so made to the distrainer shall be in full discharge as against the tenant of any sum of the like amount which would be otherwise due from the owner of the stock to the tenant in respect of the price of feeding: Provided always, that so long as any portion of such live stock shall remain on the said holding the right to distrain such portion shall continue to the full extent of the price originally agreed to be paid for the feeding of the whole of such live stock, or if part of such price has been bonâ fide paid to the tenant under the agreement, then to the full extent of the price then remaining unpaid.

Limitation
of distress
in respect of
things to be
distrained.

Agricultural or other machinery which is the

bonâ fide property of a person other than the tenant, and is on the premises of the tenant under a bonâ fide agreement with him for the hire or use thereof in the conduct of his business, and live stock of all kinds which is the bonâ fide property of a person other than the tenant, and is on the premises of the tenant solely for breeding purposes, shall not be distrained for rent in arrear.

Remedy for
wrongful
distress
under this Act.

46. Where any dispute arises—

- (a) in respect of any distress having been levied contrary to the provisions of this Act; or
- (b) as to the ownership of any live stock distrained, or as to the price to be paid for the feeding of such stock; or
- (c) as to any other matter or thing relating to a distress on a holding to which this Act applies :

such dispute may be heard and determined by the county court or by a court of summary jurisdiction, and any such county court or court of summary jurisdiction, may make an order for restoration of any live stock or things unlawfully distrained, or may declare the price agreed to be paid in the case where the price of the feeding is required to be ascertained, or may make any other order which justice requires: any such dispute as mentioned in this section shall be deemed to be a matter in which a court of summary jurisdiction has authority by law to make an order on complaint in pursuance

of the Summary Jurisdiction Acts ; but any person aggrieved by any decision of such court of summary jurisdiction under this section may, on giving such security to the other party as the court may think just, appeal to a court of general or quarter sessions.

47. Where the compensation due under this Act, or under any custom or contract, to a tenant has been ascertained before the landlord distrains for rent due, the amount of such compensation may be set off against the rent due, and the landlord shall not be entitled to distrain for more than the balance.

Set-off of compensation against rent.

48. An order of the county court or of a court of summary jurisdiction under this Act shall not be quashed for want of form, or be removed by certiorari or otherwise into any superior court.

Exclusion of certiorari.

49. No person whatsoever making any distress for rent on a holding to which this Act applies when the sum demanded and due shall exceed the sum of twenty pounds for or in respect of such rent shall be entitled to any other or more costs and charges for and in respect of such distress or any matter or thing done therein than such as are fixed and set forth in the Second Schedule hereto.

Limitation of costs in case of distress.

50. So much of an Act passed in the second year of the reign of their Majesties King William the Third and Mary, chapter five, as requires appraisement before sale of goods distrained is hereby repealed as respects any holding to which this Act applies, and the landlord or other person levying a

Repeal of 2 W. and M. c. 5. s. 1, as to appraisement and sale at public auction.

distress on such holding may sell the goods and chattels distrained without causing them to be previously appraised; and for the purpose of sale the goods and chattels distrained shall, at the request in writing of the tenant or owner of such goods and chattels, be removed to a public auction room or to some other fit and proper place specified in such request and be there sold. The costs and expenses attending any such removal, and any damage to the goods and chattels arising therefrom, shall be borne and paid by the party requesting the removal.

Extension of
time to replevy
at request of
tenant.

51. The period of five days provided in the said Act of William and Mary, chapter five, within which the tenant or owner of goods and chattels distrained may replevy the same shall, in the case of any distress on a holding to which this Act applies, be extended to a period of not more than fifteen days, if the tenant or such owner make a request in writing in that behalf to the landlord or other person levying the distress, and also give security for any additional costs that may be occasioned by such extension of time. Provided that the landlord or person levying the distress may, at the written request or with the written consent of the tenant, or such owner as aforesaid, sell the goods and chattels distrained or part of them at any time before the expiration of such extended period as aforesaid.

Bailiffs to be
appointed by
county court
judges.

52. From and after the commencement of this Act no person shall act as a bailiff to levy any distress on any holding to which this Act applies unless he shall be authorised to act as a bailiff by a certificate in writing under the hand of the judge of a county court; and every county court judge shall, on or before the thirty-first day of December one thousand eight hundred and eighty-three, and afterwards from time to time as occasion shall require, appoint a competent number of fit and proper persons to act as such bailiffs as aforesaid. If

any person so appointed shall be proved to the satisfaction of the said judge to have been guilty of any extortion or other misconduct in the execution of his duty as a bailiff, he shall be liable to have his appointment summarily cancelled by the said judge.

PART III.

General Provisions.

Commencement
of Act.

53. This Act shall come into force on the first day of January, one thousand eight hundred and eighty-four, which day is in this Act referred to as the commencement of this Act.

Holdings to
which Act
applies.

54. Nothing in this Act shall apply to a holding that is not either wholly agricultural or wholly pastoral, or in part agricultural, and as to the residue pastoral, or in whole or in part cultivated as a market garden, or to any holding let to the tenant during his continuance in any office, appointment, or employment held under the landlord.

Avoidance
of agreement
inconsistent
with Act.

55. Any contract, agreement, or covenant made by a tenant, by virtue of which he is deprived of his right to claim compensation under this Act in respect of any improvement mentioned in the First Schedule hereto (except an agreement providing such compensation as is by this Act permitted to be substituted for compensation under this Act), shall, so far as it deprives him of such right, be void both at law and in equity.

56. Where an incoming tenant has, with the consent in writing of his landlord, paid to an outgoing tenant any compensation payable under or in pursuance of this Act in respect of the whole or part of any improvement, such incoming tenant shall be entitled on quitting the holding to claim compensation in respect of such improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding, and quitted the holding at the time at which the incoming tenant quits the same.

Right of tenant in respect of improvement purchased from outgoing tenant

57. A tenant shall not be entitled to claim compensation by custom or otherwise than in manner authorised by this Act in respect of any improvement for which he is entitled to compensation under or in pursuance of this Act, but where he is not entitled to compensation under or in pursuance of this Act he may recover compensation under any other Act of Parliament, or any agreement or custom, in the same manner as if this Act had not passed.

Compensation under this Act to be exclusive.

58. A tenant who has remained in his holding during a change or changes of tenancy shall not thereafter on quitting his holding at the determination of a tenancy be deprived of his right to claim compensation in respect of improvements by reason only that such improvements were made during a former tenancy or tenancies, and not during the tenancy at the determination of which he is quitting.

Provision as to change of tenancy.

Restriction in
respect of
improvements
by tenant about
to quit.

59. Subject as in this section mentioned, a tenant shall not be entitled to compensation in respect of any improvements, other than manures as defined by this Act, begun by him, if he holds from year to year, within one year before he quits his holding, or at any time after he has given or received final notice to quit, and, if he holds as a lessee, within one year before the expiration of his lease.

A final notice to quit means a notice to quit which has not been waived or withdrawn, but has resulted in the tenant quitting his holding.

The foregoing provisions of this section shall not apply in the case of any such improvement as aforesaid—

1. Where a tenant from year to year has begun such improvement during the last year of his tenancy, and in pursuance of a notice to quit thereafter given by the landlord, has quitted his holding at the expiration of that year; and
2. Where a tenant, whether a tenant from year to year or a lessee, previously to beginning any such improvement, has served notice on his landlord of his intention to begin the same, and the landlord has either assented or has failed

for a month after the receipt of the notice to object to the making of the improvement.

60. Except as in this Act expressed, nothing in this Act shall take away, abridge, or prejudicially affect any power, right, or remedy of a landlord, tenant, or other person vested in or exercisable by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a contract of tenancy or other contract, or of any improvements, waste emblements, tillages, away-going crops, fixtures, tax, rate, tithe rent-charge, rent, or other thing.

General saving
of rights.

61. In this Act—

Interpretation.

“Contract of tenancy” means a letting of or agreement for the letting land for a term of years, or for lives, or for lives and years, or from year to year :

A tenancy from year to year under a contract of tenancy current at the commencement of the Act shall for the purposes of this Act be deemed to continue to be a tenancy under a contract of tenancy current at the commencement of this Act until the first day on which either the landlord or tenant of such tenancy could, the one by giving notice to the other immediately after the commencement of this Act,

cause such tenancy to determine, and on and after such day as aforesaid shall be deemed to be a tenancy under a contract of tenancy beginning after the commencement of this Act :

“Determination of tenancy” means the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause :

“Landlord” in relation to a holding means any person for the time being entitled to receive the rents and profits of any holding :

“Tenant” means the holder of land under a landlord for a term of years, or for lives, or for lives and years, or from year to year :

“Tenant” includes the executors, administrators, assigns, legatee, devisee, or next-of-kin, husband, guardian, committee of the estate or trustees in bankruptcy of a tenant, or any person deriving title from a tenant ; and the right to receive compensation in respect of any improvement made by a tenant shall enure to the benefit of such executors, administrators, assigns, and other persons as aforesaid :

“Holding” means any parcel of land held by a tenant :

“County court,” in relation to a holding, means the county court within the district whereof the holding or the larger part thereof is situate :

Repeal of Acts
of 1875 and 1876.

“Person ” includes a body of persons and a corporation aggregate or sole ;

“Live stock ” includes any animal capable of being distrained :

“Manures ” means any of the improvements numbered twenty-two and twenty-three in the third part of the First Schedule hereto :

The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation for improvements, or under any agreement made in pursuance of this Act.

62. On and after the commencement of this Act, the Agricultural Holdings (England) Act, 1875, and the Agricultural Holdings (England) Act, 1875, Amendment Act, 1876, shall be repealed.

Provided that such repeal shall not affect—

(a.) any thing duly done or suffered, or any proceedings pending under or in pursuance of any enactment hereby repealed ; or

(b.) Any right to compensation in respect of improvements to which the Agricultural

Holdings (England) Act, 1875, applies, and which were executed before the commencement of this Act; or

(c.) any right to compensation in respect of any improvement to which the Agricultural Holdings (England) Act, 1875, applies, although executed by a tenant after the commencement of this Act if made under a contract of tenancy current at the commencement of this Act; or

(d.) any right in respect of fixtures affixed to a holding before the commencement of this Act;

and any right reserved by this section may be enforced after the commencement of this Act in the same manner in all respects as if no such repeal had taken place.

Short title of Act.

63. This Act may be cited for all purposes as the Agricultural Holdings (England) Act, 1883.

Limits of Act.

64. This Act shall not apply to Scotland or Ireland.

FIRST SCHEDULE.

PART I.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED.

- (1.) Erection or enlargement of Buildings.
- (2.) Formation of silos.
- (3.) Laying down of permanent pasture.
- (4.) Making and planting of osier beds.
- (5.) Making of water meadows or works of irrigation.
- (6.) Making of gardens.
- (7.) Making or improving of roads or bridges.
- (8.) Making or improving of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.
- (9.) Making of fences.
- (10.) Planting of hops.
- (11.) Planting of orchards or fruit bushes.
- (12.) Reclaiming of waste land.
- (13.) Warping of land.
- (14.) Embankment and sluices against floods.

PART II.

IMPROVEMENT IN RESPECT OF WHICH NOTICE TO LANDLORD IS
REQUIRED.

- (15.) Drainage.
-

PART III.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS NOT
REQUIRED.

- (16.) Boning of land with undissolved bones.
(17.) Chalking of land.
(18.) Clay-burning.
(19.) Claying of land.
(20.) Liming of land.
(21.) Marling of land.
(22.) Application to land of purchased artificial or other
purchased manure.
(23.) Consumption on the holding by cattle, sheep, or pigs
of cake or other feeding stuff not produced on the
holding.

SECOND SCHEDULE.

[*Note*.—But see Section 49, and The Law of Distress Amendment Act, 1888, ss. 8, 9.]

Levying distress. Three per centum on any sum exceeding 20*l.* and not exceeding 50*l.* Two and a half per centum on any sum exceeding 50*l.* Section 49

To bailiff for levy, 1*l.* 1*s.*

To man in possession, if boarded, 3*s.* 6*d.* per day; if not boarded, 5*s.* per day.

For advertisements the sum actually paid.

To auctioneer. For sale five pounds per centum on the sum realised not exceeding 100*l.*, and four per centum on any additional sum realised not exceeding 100*l.*, and on any sum exceeding 200*l.* three per centum. A fraction of 1*l.* to be in all cases to be considered 1*l.*

Reasonable costs and charges where distress is withdrawn or where no sale takes place, and for negotiations between landlord and tenant respecting the distress; such costs and charges in case the parties differ to be taxed by the registrar of the county court of the district in which the distress is made.

[*Note*.—The Agricultural Holdings (England) Act, 1883 ; the Tenants' Compensation Act, 1890 ; the Market Gardeners' Compensation Act, 1895 ; and the Agricultural Holdings Act, 1900, may be cited together as the Agricultural Holdings (England) Acts, 1883 to 1900. This Act is not included.]

cf 63 and 64 Vict. c. 50, s. 14 (2), 6 Edw. 7, c. 56, s. 10.

A.D. 1887.

AN ACT to provide Compensation to the Occupiers of Allotments and Cottage Gardens for crops left in the ground at the end of their tenancies.

[8th August, 1887.]

50 and 51 Vict. cap. 26.

BE it enacted as follows :

Short title.

1. This Act may be cited as the Allotments and Cottage Gardens Compensation for Crops Act, 1887.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland or to the metropolis.

Commencement of Act.

3. This Act shall come into force on the first day of January, one thousand eight hundred and eighty-eight, which day is in this Act referred to as the commencement of this Act.

Definitions.

4. In this Act—

“The metropolis,” means the city of London and all parishes and places mentioned in Schedules A, B, and C to the Metropolis Management Act, 1855.

- “Allotment ” means any parcel of land of ^{18 & 19 Vict.}
not more than two acres in extent held _{c. 120}
by a tenant under a landlord and
cultivated as a garden or as a farm, or
partly as a garden and partly as a farm.
- “Cottage garden ” means an allotment
attached to a cottage.
- “Holding, means an allotment or cottage
garden.
- “Tenant ” means the holder of a holding
under a landlord for any term, and
includes the legal personal represen-
tative of a deceased tenant.
- “Landlord ” means the person for the
time being entitled to receive the rents
and profits of any holding.
- “Person ” includes a body of persons and
a corporation aggregate or sole.
- “Contract of tenancy ” means the letting
of land for any term.
- “Determination of tenancy ” means the
cesser of a contract of tenancy by
effluxion of time or from any other
cause.

The designations of landlord and tenant
shall for the purposes of this Act
continue to apply to the parties to a
contract of tenancy until the conclusion
of any proceedings taken under this Act
on the determination of a tenancy.

Compensation.

5. Upon the determination of the tenancy of a holding after the commencement of this Act the tenant shall be entitled notwithstanding any agreement to the contrary to obtain from the landlord compensation in money for the following matters and things, that is to say :

(a.) For crops, including fruit, growing upon the holding in the ordinary course of cultivation, and for fruit trees and fruit bushes growing thereon, which have been planted by the tenant with the previous consent in writing of the landlord.

(b.) For labour expended upon and for manure applied to the holding since the taking of the last crop therefrom in anticipation of a future crop.

(c.) For drains and for any outbuildings, pigsties, fowlhouses, or other structural improvements made by the tenant upon his holding with the written consent of his landlord.

Deduction from compensation on account of rent or breach of contract.

6. In the ascertainment of the amount of compensation payable to the tenant under this Act, any sum due to the landlord in respect of rent or of any breach of the contract of tenancy or wilful or negligent damage committed or permitted by the tenant shall be taken into account in reduction of the amount of compensation.

7. The landlord and tenant may agree upon the amount and time of payment of compensation to be paid under this Act. If in any case they do not so agree, the difference shall be settled by an arbitrator.

Compensation if not agreed upon to be settled by an arbitrator.

8. If the landlord and tenant concur they may within twenty-eight days after the determination of the tenancy jointly appoint such arbitrator. If they do not concur, such arbitrator shall be appointed in the following manner :—

Appointment of arbitrator.

(1.) The landlord and tenant or either of them may apply personally or in writing to the justices of the peace, acting for the petty sessional division in which the holding is situated, in petty sessions, and such justices shall, upon the receipt of the application, appoint one of their number not being interested in the holding, or other competent person not being interested as aforesaid, to act as such arbitrator.

(2.) If before award the person so appointed dies or becomes incapable of acting or for seven days after his appointment fails to act the justices shall appoint in manner aforesaid another arbitrator.

9. The justices shall in all cases in which it is practicable obtain the consent of the arbitrator to act without remuneration, and in any case in which it is impracticable to obtain such consent

Justices if practicable to appoint person to act as arbitrator without remuneration.

they shall direct that the arbitrator shall be paid such moderate sum as they consider will reasonably remunerate him for his time and expenses.

Time for commencement of arbitration.

10. The arbitrator shall proceed to determine any difference referred to him under this Act within seven days after his appointment.

Power for arbitrator to administer oaths.

11. The arbitrator, if he shall consider it desirable or necessary so to do, shall have power to call for the production of any document which is in the possession of either party, or which either party can produce, and which to the arbitrator seems necessary for determination of the difference referred to him, and to take the examination of the parties and witnesses on oath and to administer oaths and take affirmations, and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury.

Power to proceed in absence of either party.

12. The arbitrator may proceed in the absence of either party after notice given to both parties.

Form of award and time for its delivery.

13. The award shall be in writing signed by the arbitrator, and shall be ready for delivery within fourteen days after his appointment, or within such extended time not exceeding in the whole twenty-eight days after his appointment as the parties may agree upon in writing.

14. The costs (if any) of and attending the arbitration including the remuneration (if any) of the arbitrator shall be borne and paid by the parties in such proportion as to the arbitrator appears just, and the award may direct the payment of the whole or any part of the aforesaid costs by the one party to the other, or may declare that no costs shall be payable.

Costs of arbitration.

15. The award shall fix a day not sooner than fourteen days after the delivery of the award for the payment of the money awarded for compensation, costs or otherwise.

Day for payment.

16. The award shall be final and conclusive in every case; and neither the submission to arbitration nor the award shall be made a rule of any court, or be removable by any process into any court.

Award to be final.

17. Where any money agreed or awarded to be paid for compensation, costs, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded to be paid, it shall be recoverable upon order made by the judge of the county court within the district of which the holding is situated, as money ordered to be paid by a county court under its ordinary jurisdiction is recoverable.

Recovery of compensation money.

No claim to be made under the Agricultural Holdings (England) Act for any matter or thing for which a claim is made under this Act.

18. No claim for compensation shall be made under the Agricultural Holdings (England) Act, 1883, for any matter or thing in respect of which a claim for compensation is made under this Act, and in any case in which the provisions of that Act and of this Act conflict the provisions of this Act shall prevail.

AN ACT to amend the Law with respect to
Compensation due to Tenants on Land under
Mortgage. [18th August, 1890.]

A.D. 1883.

53 and 54 Vict. cap. 57.

WHEREAS it is expedient to amend the Agricultural Holdings Act, 1883, and the Allotments and Cottage Gardens Compensation for Crops Act, 1887, in so far as they relate to the compensation paid to tenants for improvements where land is under mortgage :

46 & 47 Vict.
c. 61.
50 & 51 Vict.
c. 26.

BE it therefore enacted as follows :

1. This Act shall be construed as one with the Agricultural Holdings Act, 1883, and the Allotments and Cottage Gardens Compensation for Crops Act, 1887 (in this Act referred to as the principal Acts), and this Act may be cited as the Tenants Compensation Act, 1890.

Construction
and short title.

2. Where a person occupies land under a contract of tenancy with the mortgagor, whether made before or after the passing of this Act, which is not binding on the mortgagee of such land, then—

Compensation
to tenants,
when mort-
gagee in
possession.

(1.) The occupier shall, as against the mortgagee who takes possession, be entitled to any compensation which is, or would but for the

mortgagee taking possession be due to the occupier from the mortgagor as respects crops, improvements, tillages, or other matters connected with the land, whether under the principal Acts or the custom of the country, or agreements sanctioned by the principal Acts;

Provided that any sum ascertained to be due to the occupier for such compensation or for any costs connected therewith, may be set off against any rent or other sum due from him in respect of the land, and recovered as compensation under the principal Acts, but unless so set off shall, as against the mortgagee, be charged and recovered in accordance only with section thirty-one of the Agricultural Holdings Act, 1883, as if the mortgagee were the landlord within the meaning of that section.

- (2.) Before the mortgagee deprives the occupier of possession of the land otherwise than in accordance with the said contract, he shall give to the occupier six months' notice in writing of his intention so to deprive him, and if he so deprives him compensation shall be due to the occupier for his crops, and for any expenditure upon the land which he has made in the expectation of holding the land for the full term of his contract of tenancy, in so far

as any improvement resulting therefrom is not exhausted at the time of his being so deprived, and such compensation shall be determined in like manner as compensation under the principal Acts, and shall be set off, charged, and recovered in manner before provided in this section. This sub-section shall only apply where the said contract is for a tenancy from year to year, or for a term of years not exceeding twenty-one, at a rack-rent.

3. Where compensation for improvements comprised in Part One or Part Two of the First Schedule to the Agricultural Holdings (England) Act, 1883, is charged by an order under section thirty-one of that Act, the charge shall be a land charge within the meaning of the Land Charges Registration and Searches Act, 1888, and shall be registered accordingly.

51 & 52 Vict.
c. 51, to apply to
compensation
under 46 & 47
Vict. c. 61. s. 31.

4. This Act shall not apply to provisions for the payment of tithe rent-charge arising under the Tithe Commutation Act, and subsequent Acts relating thereto.

Exception of
tithe rent-
charge, 6 & 7
Will. 4. c. 71.

5. This Act shall not apply to Scotland or Ireland.

Extent of Act.

A.D. 1895.

AN ACT to extend and amend the provisions of the Agricultural Holdings (England) Act, 1883, so far as they relate to Market Gardens.

[6th July, 1895.]

58 and 59 Vict. cap. 27.

BE it enacted as follows :

[*Note.—The portions repealed are printed in small type.*]

Short title and construction.

1. This Act may be cited as the Market Gardeners' Compensation Act, 1895, and shall be read and construed as part of the Agricultural Holdings (England) Act, 1883, hereinafter called the principal Act, as amended by the Tenants' Compensation Act, 1890.

Commencement of Act.

2. This Act shall come into operation on the first day of January, one thousand eight hundred and ninety-six, which date is hereinafter referred to as the commencement of this Act.

Amendment and extension of 46 & 47 Vict. c. 61. as to improvements executed in or upon market gardens.

3. Where after the commencement of this Act it is agreed in writing that a holding shall be let or treated as a market garden, the following provisions shall have effect :

- (1) The provisions of section thirty-four of the principal Act shall extend to every fixture or building affixed or erected by the tenant to or upon such holding for the purposes of his trade or business of a market gardener.

- (2.) The improvements numbered (1) "erection or enlargement of buildings," (6) "making of gardens," and (11) "planting of orchards or fruit bushes," in Part I. of the First Schedule to the principal Act shall, as far as regards such holding, cease to be comprised in the said schedule.
- (3.) The following improvements shall as far as regards such holding be deemed to be comprised in Part III. of the said schedule :—
- (i.) Planting of standard or other fruit trees permanently set out ;
 - (ii.) Planting of fruit bushes permanently set out ;
 - (iii.) Planting of strawberry plants ;
 - (iv.) Planting of asparagus and other vegetable crops ;
 - (v.) Erection or enlargement of buildings for the purposes of the trade or business of a market gardener.
- (4) Section fifty-six of the principal Act shall be read and construed as if the words "with the consent in writing of his landlord" were not included therein.
- (5) It shall be lawful for the tenant to remove all fruit trees and fruit bushes planted by him on the holding and not permanently set out ; but if the tenant shall not remove such fruit trees and fruit bushes before the termination of his tenancy, such fruit trees and fruit bushes shall remain the property of the landlord, and the tenant shall not be entitled to any compensation in respect thereof,

Application to
current
tenancies.

4. Where, under a contract of tenancy current at the commencement of this Act, a holding is at that date in use or cultivation as a market garden with the knowledge of the landlord, and the tenant thereof has then executed thereon, without having received previously to the execution thereof any written notice of dissent by the landlord, any of the improvements in respect of which a right of compensation or removal is given to a tenant by this Act, then the provisions of this Act shall apply in respect of such holding, as if it had been agreed in writing after the commencement of this Act that the holding should be let or treated as a market garden.

As to Crown
lands and lands
belonging to the
Duchies of
Lancaster and
Cornwall.

5. Any compensation payable under this Act shall as regards land belonging to Her Majesty the Queen, Her heirs and successors, in right of the Crown or in right of the Duchy of Lancaster, and as regards land belonging to the Duchy of Cornwall, be paid in the same manner and out of the same funds respectively as if it were payable in respect of an improvement mentioned in the first part of the First Schedule to the principal Act, except that as regards land belonging to Her Majesty the Queen, Her heirs and successors, in right of the Crown, compensation for planting strawberry plants and asparagus and other vegetable crops shall be paid in the same manner and out of the same funds as if it were payable in

respect of an improvement mentioned in the third part of the said schedule.

6. For the purposes of the principal Act and Interpretation. of this Act the expression “ market garden ” shall mean a holding or that part of a holding which is cultivated wholly or mainly for the purpose of the trade or business of market gardening.

A.D. 1900.

AN ACT to amend the Law relating to Agricultural Holdings. [8th August, 1900.]

63 and 64 Vict. cap. 50.

BE it enacted as follows:—

[Note.—The portions printed in small type are repealed as from the 1st January, 1909.]

Right of tenant
to compensa-
tion for
improvements,
46 & 47 Vict.
c. 61.

1.—(1.) Where a tenant has made on his holding any improvement comprised in the First Schedule to this Act he shall subject as in the Agricultural Holdings (England) Act, 1883 (in this Act referred to as the principal Act), and in this Act mentioned, be entitled, at the determination of a tenancy, on quitting his holding to obtain from the landlord as compensation under the said Acts for the improvement such sum as fairly represents the value of the improvement to an incoming tenant. Provided always, that in estimating the value of any such improvement there shall not be taken into account, as part of the improvement made by the tenant, what is justly due to the inherent capabilities of the soil.

(2.) References in the principal Act to the First Schedule to that Act shall be construed as references to the First Schedule to this Act.

(3.) In the ascertainment of the amount of the compensation payable to a tenant under the principal Act or this Act there shall be taken into account any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement.

(4.) In the ascertainment of the amount of the compensation payable to a tenant in respect of manures as defined by this Act, there shall be taken into account the value of the manure required by the contract of tenancy or by custom to be returned to the holding in respect of any crops sold off or removed from the holding within the last two years of the tenancy or other less time for which the tenancy has endured, not exceeding the value of the manure which would have been produced by the consumption on the holding of the crops so sold off or removed.

(5.) Nothing in this section shall prejudice the right of a tenant to claim any compensation to which he may be entitled under custom, agreement, or otherwise, in lieu of any compensation provided by this section.

2.—(1.) If a tenant claims to be entitled to compensation, whether under the principal Act or this Act, or under custom, agreement, or otherwise, in respect of any improvement comprised in the first Schedule to this Act, and if the landlord and tenant fail to agree as to the amount and time and mode of payment of such compensation, the difference shall be settled by arbitration in accordance with the provisions, if any, in that behalf in any agreement between landlord and tenant, and in default of and subject to any such provisions

Settlement of
differences by
arbitration.

by arbitration under this Act in accordance with the provisions set out in the Second Schedule to this Act.

(2.) Any claim by a tenant for compensation under the principal Act or this Act in respect of any improvement comprised in the First Schedule to this Act shall not be made after the determination of the tenancy. Provided that where the claim relates to an improvement executed after the determination of the tenancy, but while the tenant lawfully remains in occupation of part of the holding, the claim may be made at any time before the tenant quits that part.

(3.) Where any claim by a tenant for compensation in respect of any improvement comprised in the First Schedule to this Act is referred to arbitration, and any sum is claimed to be due to the tenant from the landlord in respect of any breach of contract or otherwise in respect of the holding, or to the landlord from the tenant in respect of any waste wrongfully committed or permitted by the tenant, or in respect of breach of contract or otherwise in respect of the holding, the party claiming such sum may, if he thinks fit, by written notice to the other party given by registered letter or otherwise not later than seven days after the appointment of the arbitrator or arbitrators, require that the arbitration shall extend to the determination of the further claim,

and thereupon the provisions of this section with respect to arbitration shall apply accordingly, and any sum awarded to be paid by a landlord or tenant shall be recoverable in manner provided by the principal Act for the recovery of compensation.

(4.) Where any claim which is referred to arbitration relates to an improvement executed or matter arising after the determination of the tenancy, but while the tenant lawfully remains in occupation of part of the holding, the arbitrator may, if he thinks fit, make a separate award in respect of such claim.

(5.) An arbitration shall, unless the parties otherwise agree, be before a single arbitrator.

(6.) If in any arbitration under this Act the arbitrator states a case for the opinion of the county court on any question of law, the opinion of the court so stated shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme courts either party appeals to the Court of Appeal, from whose decision no appeal shall lie.

(7.) Any person who wilfully and corruptly gives false evidence before an arbitrator or umpire in any arbitration under this Act shall be guilty of perjury, and may be dealt with, prosecuted, and punished accordingly.

58 & 59 Vict.
c. 49.

(8.) Subject to any provision contained in any agreement between landlord and tenant the Arbitration Act, 1889, shall not apply to any arbitration to which this Act applies.

Land charges.

3.—(1.) The powers of the county court under the principal Act with respect to charges shall be exercised by the Board of Agriculture, and accordingly the Board of Agriculture shall be substituted for the county court in sections twenty-nine, thirty, thirty-one, thirty-two, and thirty-nine of that Act.

(2.) Where a charge may be made under the principal Act or this Act for compensation, the person making the award shall, at the request and cost of the party entitled to obtain the charge, certify the amount to be charged and the term for which the charge may properly be made, having regard to the time at which each improvement in respect of which compensation is awarded is to be deemed to be exhausted.

(3.) Sections twenty-nine, thirty, and thirty-one of the principal Act shall apply to any money paid by or due from a landlord to a tenant as compensation for any improvement comprised in the First Schedule to this Act, whether the compensation be claimed under this Act or under custom or agreement or otherwise.

(4.) A charge made by the Board of Agriculture pursuant to this section shall be a land charge within the meaning of the Land Charges Registration and Searches Act, 1888, and may be registered accordingly. This sub-section shall not apply to Scotland.

51 & 52 Vict.
c. 51.

4. The provisions of section thirty-four of the principal Act shall apply to a fixture or building acquired by a tenant in like manner as they apply to a fixture or building affixed or erected by a tenant.

Fixtures
and buildings.

5. The landlord of a holding or any person authorised by him may at all reasonable times enter on the holding, or any part of it, for the purpose of viewing the state of the holding.

Power of entry.

6. Notwithstanding any provision in a contract of tenancy making the tenant liable to pay a higher rent or other liquidated damages in the event of any breach or non-fulfilment of a covenant or condition, a landlord shall not be entitled to recover, by distress or otherwise, any sum in consequence of any breach or non-fulfilment of any such covenant or condition in excess of the damage actually suffered by him in consequence of the breach or non-fulfilment. Provided that this section shall not apply to any covenant or condition against

Penal rents and
liquidated
damages.

breaking up permanent pasture, grubbing under-woods, or felling, cutting, lopping or injuring trees, or regulating the burning of heather.

Improvement
executed before
Act comes into
operation.

7. The compensation in respect of an improvement made before this Act comes into operation shall be such (if any) as could have been claimed if this Act had not been passed, but shall be ascertained in the manner provided by this Act.

Notice of
termination
of tenancy.
46 & 47 Vict.
c. 62,
49 & 50 Vict.
c. 50.

8. From and after the passing of this Act notice of termination of tenancy under section twenty-eight of the Agricultural Holdings (Scotland) Act, 1883, may be given in the same manner as a notice of removal under section six of the Removal Terms (Scotland) Act, 1886.

Interpretation.

9.—(1.) References to “manures” in the principal Act and this Act shall be construed as references to the improvements numbered twenty-three, twenty-four, and twenty-five in Part III. of the First Schedule to this Act.

(2.) This Act shall be construed as one with the principal Act.

Application to
Scotland.

10. In the application of this Act to Scotland—

46 & 47 Vict.
c. 62.

(1.) References to the principal Act and to sections twenty-nine, thirty, thirty-two, and thirty-four thereof shall be construed as references to the Agricultural Holdings

(Scotland) Act, 1883, and to sections twenty-four, twenty-five, twenty-six, and thirty thereof respectively. References to sections thirty-one and thirty-nine of the principal Act shall not apply.

- (2) A reference to the Arbitration Act, 1889, shall be construed as a reference to the Arbitration (Scotland) Act, 1894, and a reference to the Market Gardeners' Compensation Act, 1895, shall be construed as a reference to the Market Gardeners' Compensation (Scotland) Act, 1897: 57 & 58 Vict.
c. 13.
60 & 51 Vict.
c. 29.
- (3) The expression "either division of the Court of Session" shall be substituted for "Court of Appeal," "sheriff" for "county court" or "judge of a county court," "auditor of the sheriff court" for "registrar of the county court," "Act of Sederunt" for "Rules of the Supreme Court," "arbiter" and "arbiters" for "arbitrator" and "arbitrators," "oversman" for "umpire," "deterioration" for "waste," "expenses" for "costs":
- (4.) Any award or agreement as to compensation, and any other award under this Act, may be competently recorded for execution in the books of council and session or sheriff court books, and shall

be enforceable in like manner as a recorded decree arbitral.

- (5.) Where any jurisdiction committed by the principal Act or this Act to the sheriff is exercised by the sheriff-substitute there shall be no appeal to the sheriff.

Extent of Act.

11. This Act shall not extend to Ireland.

Repeal.

12. The enactments specified in the Third Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

Commencement of Act.

13. This Act shall come into operation on the first day of January, one thousand nine hundred and one.

Short titles.

14.—(1.) This Act may be cited as the Agricultural Holdings Act, 1900.

53 & 54 Vict.
c. 57.
58 & 59 Vict.
c. 27.

(2.) The Agricultural Holdings (England) Act, 1883, the Tenants Compensation Act, 1890, the Market Gardeners' Compensation Act, 1895, and this Act may be cited together as the Agricultural Holdings (England) Acts, 1883 to 1900.

(3.) The Agricultural Holdings (Scotland) Act, 1883, the Market Gardeners' Compensation (Scotland) Act, 1897, and this Act may be cited together as the Agricultural Holdings (Scotland) Acts, 1883 to 1900.

SCHEDULES.

Sections 1, 2, 3.

FIRST SCHEDULE.

PART I.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED.

1. Erection, alteration, or enlargement of buildings.
2. Formation of silos.
3. Laying down of permanent pasture.
4. Making and planting of osier beds.
5. Making of water meadows or works of irrigation.
6. Making of gardens.
7. Making or improving of roads or bridges.
8. Making or improving of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.
9. Making or removal of permanent fences.
10. Planting of hops.
11. Planting of orchards or fruit bushes.
12. Protecting young fruit trees.
13. Reclaiming of waste land.

14. Warping or weiring of land.
15. Embankment and sluices against floods.
16. The erection of wirework in hop gardens.

[N.B.—*This part is subject as to market gardens to the provisions of Part III.*]

PART II.

IMPROVEMENTS IN RESPECT OF WHICH NOTICE TO LANDLORD IS REQUIRED.

17. Drainage.
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PART III.

IMPROVEMENTS IN RESPECT OF WHICH CONSENT OF OR NOTICE TO LANDLORD IS NOT REQUIRED.

18. Chalking of land.
19. Clay-burning.
20. Claying of land or spreading blaes upon land.
21. Liming of land.
22. Marling of land.
23. Application to land of purchased artificial or other purchased manure.
24. Consumption on the holding by cattle, sheep, pigs, or by horses other than those regularly

employed on the holding, of corn, cake, or other feeding stuff not produced on the holding.

25. Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn proved by satisfactory evidence to have been produced and consumed on the holding.

26. Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the determination of the tenancy.

27. In the case of a holding as to which section three of the Market Gardeners' Compensation Act, 1895, applies—

58 & 59 Vict.
c. 27.

(i.) Planting of standard or other fruit trees permanently set out ;

(ii.) Planting of fruit bushes permanently set out ;

(iii.) Planting of strawberry plants ;

(iv.) Planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years ;

(v.) Erection or enlargement of buildings for the purpose of the trade or business of a market gardener.

SECOND SCHEDULE.

RULES AS TO ARBITRATION.

PART I.

ARBITRATION BEFORE A SINGLE ARBITRATOR.

Appointment of Arbitrator.

1. A person agreed upon between the parties, or in default of agreement nominated by the Board of Agriculture on the application in writing of either of the parties, shall be appointed arbitrator.

2. If a person appointed arbitrator dies, or is incapable of acting, or for seven days after notice from either party requiring him to act fails to act, a new arbitrator may be appointed as if no arbitrator had been appointed.

3. Neither party shall have power to revoke the appointment of the arbitrator without the consent of the other party.

4. Every appointment, notice, revocation, and consent under this part of these rules must be in writing.

Time for Award.

5. The arbitrator shall make and sign his award within twenty-eight days of his appointment or within such longer period as the Board of Agriculture may (whether the time for making the award has expired or not) direct.

Removal of Arbitrator.

6. Where an arbitrator has misconducted himself the county court may remove him.

Evidence.

7. The parties to the arbitration, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrator, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrator all samples, books, deeds, papers, accounts, writings, and documents, within their possession or power respectively which may be required or called for, and do all other things which during the proceedings the arbitrator may require.

8. The arbitrator shall have power to administer oaths, and to take the affirmation of parties and witnesses appearing, and witnesses shall, if the arbitrator thinks fit, be examined on oath or affirmation.

Statement of Case.

9. The arbitrator may at any stage of the proceedings, and shall, if so directed by the judge of a county court (which direction may be given on the application of either party) state in the form of a special case for the opinion of that court any question of law arising in the course of the arbitration.

Award.

[*Note.*—*This rule is not expressly repealed by 6 Edw. 7. c. 56, but, by s. 1 (3) thereof, another rule is substituted therefor.*]

10. The arbitrator shall on the application of either party specify the amount awarded in respect of any particular improvement or improvements, and the award shall fix a day not sooner than one month nor later than two months after the delivery of the award for the payment of the money awarded for compensation, costs, or otherwise, and shall be in such form as may be prescribed by the Board of Agriculture.

11. The award to be made by the arbitrator shall be final and binding on the parties and the persons claiming under them respectively.

12. The arbitrator may correct in an award any clerical mistake or error arising from any accidental slip or omission.

13. When an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the county court may set the award aside.

Costs.

14. The costs of and incidental to the arbitration and award shall be in the discretion of the arbitrator, who may direct to and by whom and in what manner these costs or any part thereof are to be paid, and the costs shall be subject to taxation by the registrar of the county court on the application of either party, but that taxation shall be subject to review by the judge of the county court.

15. The arbitrator shall, in awarding costs, take into consideration the reasonableness or unreasonableness of the claim of either party, either in respect of amount or otherwise, and any unreasonable demand for particulars or refusal to supply particulars, and generally all the circumstances of the case, and may disallow the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

Forms.

16. Any forms for proceedings in arbitrations under this Act which may be prescribed by the Board of Agriculture shall, if used, be sufficient.

PART II.

ARBITRATION BEFORE TWO ARBITRATORS OR AN UMPIRE.

Appointment of Arbitrators and Umpire.

1. If the parties agree in writing that there be not a single arbitrator, each of them shall appoint an arbitrator.

2. If before award one of two arbitrators dies or is incapable of acting, or for seven days after notice from either party requiring him to act fails to act, the party appointing him shall appoint another arbitrator.

3. Notice of every appointment of an arbitrator by either party shall be given to the other party.

4. If for fourteen days after notice by one party to the other to appoint an arbitrator, or another arbitrator, the other party fails to do so, then, on the application of the party giving notice, the Board of Agriculture shall appoint a person to be an arbitrator.

5. Where two arbitrators are appointed, then (subject to the provisions of these rules) they shall, before they enter on the arbitration, appoint an umpire.

6. If before award an umpire dies, or is incapable of acting, or for seven days after notice from either party requiring him to act fails to act, the arbitrators may appoint another umpire.

7. If for seven days after request from either party, the arbitrators fail to appoint an umpire, or another umpire, then, on the application of either party, the Board of Agriculture shall appoint a person to be the umpire.

8. Neither party shall have power to revoke an appointment of an arbitrator without the consent of the other.

9. Every appointment, notice, request, revocation, and consent under this part of these rules shall be in writing.

Time for Award.

10. The arbitrators shall make and sign their award in writing within twenty-eight days after the appointment of the last appointed of them, or on or before any later day to which the arbitrators, by any writing signed by them, may enlarge the time for making the award, not being more than forty-nine days from the appointment of the last appointed of them.

11. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to either party or to the umpire a notice in writing stating that they cannot agree, the umpire may forthwith enter on the arbitration in lieu of the arbitrators.

12. The umpire shall make and sign his award within one month after the original or extended time appointed for making the award of the arbitrators has expired.

13. The time for making an award may from time to time be extended by the Board of Agriculture, whether the time for making the award has expired or not.

Removal of Arbitrator, Evidence, Statement of Case, Award, Costs, Forms.

14. The provisions of Part I. of these rules as to the removal of an arbitrator, the evidence, the statement of a case, the award, costs, and forms shall apply to an arbitration in accordance with this Part as if the expression "arbitrator" whenever used in those provisions included two arbitrators or an umpire, as the case may require.

THIRD SCHEDULE.

ENACTMENTS REPEALED.—Section 12.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 61.	The Agricultural Holdings (England) Act, 1883.	Section one. Sections six to sixteen. Section seventeen from “and the award shall” to the end of the section. Sections eighteen to twenty-three. In section twenty-four the words “or ordered on appeal” and the words “or ordered.” Section twenty-nine from “where an award has been made” to “improvement will.” Section fifty-seven. The definition of, “manures” in section sixty-one. The First Schedule.
46 & 47 Vict. c. 62.	The Agricultural Holdings (Scotland) Act, 1883.	Section one. Sections six to eight. Sections eleven to fifteen. Section sixteen from the beginning thereof to “within the county,” and from “and the award shall” to the end of the section. Sections seventeen to twenty. In section twenty-one the words “or ordered on appeal,” and the words “or ordered.” Section twenty-four from “where an award has been made” to “improvement will.” Section thirty-eight. The Schedule.

Third Schedule. Enactments Repealed. (*continued*).

Session and Chapter.	Short Title.	Extent of Repeal.
52 & 53 Vict. c. 20.	The Agricultural Holdings (Scotland) Act, 1889.	The whole Act.
58 & 59 Vict. c. 27.	The Market Gardeners' Compensation Act, 1895.	In section three the paragraphs numbered (2) and (3).
60 & 61 Vict. c. 22.	The Market Gardeners' Compensation (Scotland) Act, 1897.	In section three the paragraphs numbered (2) and (3).

BOARD OF AGRICULTURE RULES.

(DATED 7th DECEMBER, 1900).

AGRICULTURAL HOLDINGS (ENGLAND) RULES OF 1900.

THE Board of Agriculture, by virtue and in exercise of the powers in them vested under the Agricultural Holdings Act, 1900, do hereby prescribe as follows :—

1. An award in an arbitration under the Agricultural Holdings Act, 1900, shall be in the form set forth in the First Schedule hereto, with such modifications of the recitals therein contained as circumstances may require.

2. The several forms for proceedings in arbitrations under the said Act, which are set forth in the Second Schedule hereto, shall, if used, be sufficient.

3. These Rules extend to England and Wales only.

4. These Rules may be cited as the Agricultural Holdings (England) Rules of 1900.

In witness whereof the Board of Agriculture have hereunto set their Official Seal this Seventh day of December, One thousand nine hundred.

(L.S.)

THE FIRST SCHEDULE TO THE ABOVE RULES.

FORM A.

Form of Award.

AGRICULTURAL HOLDINGS (ENGLAND) ACTS, 1883 TO 1900.

In the matter of a holding known as
lately in the Occupation of A.B., of
(*the quitting tenant*).

, Insert name
(if any) and
description of
holding.

To all to whom these presents shall come I, F.G., of
, [we, F.G., of
and H.K., of ,] send greeting.

Whereas C.D., the landlord of the above-mentioned holding,
and the said A.B., the tenant thereof, have failed to agree as
to the amount and time and mode of payment of the
compensation to which the said A.B. claims to be entitled in
respect of the improvements made on the above-mentioned
holding, which are comprised in the First Schedule to this
Award.

(*Here insert recitals of appointments of Arbitrator, Arbitrators,
or Umpire. See forms B., C., and D.*)

And whereas the said A.B., by written notice to the said
C.D., has required that the arbitration shall extend to the
determination of certain further claims by the said A.B.
against the said C.D. in respect of the said holding, the short
particulars of which claims are set forth in the Second
Schedule to this Award.

And whereas the said C.D., by written notice to the said
A.B., has required that the arbitration shall extend to the
determination of certain claims by the said C.D. against the

said A.B. in respect of the said holding, the short particulars of which claims are set forth in the Third Schedule to this Award.

And whereas the said A.B. or C.D. has applied to me [us] to specify the amount awarded in respect of such of the improvements comprised in the First Schedule to this Award as are in such Schedule marked with an asterisk.

And whereas the time for making my [our] Award has been extended by the Board of Agriculture to the day of _____, 190 _____,
or

And whereas we have duly enlarged the time for making our Award to the day of _____, 190 _____.

Now know ye that I, the said F.G. [we, the said F.G. and H.K.], having taken upon myself [ourselves] the burden of the said reference, and having heard, examined, and considered the witnesses and evidence concerning the said matters so referred to me [us] as aforesaid, do make and publish this my [our] Award of and concerning the same in manner following, that is to say:—

1. I [We] award and determine that the said A.B. is entitled to receive from the said C.D. the sum of _____ pounds _____ shillings and _____ pence, as compensation in respect of the improvements comprised in the First Schedule to this Award, and I [we] do hereby declare that the amounts awarded by me [us] in respect of such of the said improvements as are marked with an asterisk are the amounts set against such improvements in such Schedule.

2. I [We] award and determine that the said A.B. is entitled to receive from the said C.D. the sum of _____ pounds _____ shillings and _____ pence in

respect of the claims mentioned in the Second Schedule to this Award.

3. I [We] award and determine that the said C.D. is entitled to receive from the said A.B. the sum of
pounds shillings and pence in
respect of the claims mentioned in the Third Schedule to this
Award.

4. I [We] award and determine that the said sum[s] of
pounds shillings and
pence [and pounds
shillings and pence] awarded
by me [us] shall, subject to the provisions of the Agricultural
Holdings (England) Acts, 1883 to 1900, be paid by the said
C.D. to the said A.B. on the day after the delivery of
this Award; and that the said sum of pounds
shillings and pence awarded
by me [us] shall, subject as aforesaid, be paid by the said
A.B. to the said C.D. on the same day.

NOTE.
The date in
paragraphs
4 and 5 must
not be earlier
than one calen-
dar month, nor
later than two
calendar
months, after
the delivery of
the award.

5. I [We] award and direct that the costs of and
incidental to the arbitration and this Award shall be paid by
the said A.B. or C.D. or by the said A.B. and C.D. in the
following proportions, namely, part thereof by the
said A.B. and part thereof by the said C.D. [*or
otherwise as may be directed*], or I [We] award and direct that
each party shall bear his own costs of and incidental to this
arbitration, and shall pay part of my [our] costs of
this Award, and that any costs payable by the one party to
the other party under or by virtue of this Award shall be so
paid on the day after the delivery of this Award.

See note above.

In witness whereof I [we] have hereunto set my [our]
hands [s] this day of 190 .

Signed by the said F.G. [and H.K.] in the presence of

F.G.
[H.K.]

THE FIRST SCHEDULE REFERRED TO IN THE
ABOVE-WRITTEN AWARD.

(Here insert each of the improvements comprised in the First Schedule to the Agricultural Holdings Act, 1900, in respect of which a claim by the tenant has been referred to arbitration. If either party has required that the amount awarded in respect of any particular improvement shall be specified, the person or persons making the Award will mark such improvement with an asterisk, and place against the improvement the amount awarded in respect thereof.)

THE SECOND SCHEDULE REFERRED TO IN THE
ABOVE-WRITTEN AWARD.

(Here insert short particulars of any further claim by the tenant to which he has by written notice required that the arbitration shall extend.)

THE THIRD SCHEDULE REFERRED TO IN THE
ABOVE-WRITTEN AWARD.

(Here insert short particulars of any claim by the landlord to which he has by written notice required that the arbitration shall extend.)

NOTE.—The Award may be endorsed as follows:—

This award was delivered to A.B. [or C.D.] on the
day of 190 .

F.G.
[H.K.]

FORM B.

(Recital of Appointment of a Single Arbitrator.)

And whereas by an appointment, dated the _____ day of _____, 19____, signed by the said A.B. and C.D. [or sealed by the Board of Agriculture, as the case may be], I, the said F.G., was duly appointed under the Agricultural Holdings (England) Acts, 1883 to 1900, to act as arbitrator for the purpose of settling the said differences, in accordance with the provisions set out in the Second Schedule to the Agricultural Holdings Act, 1900.

FORM C.

(Recital of Appointment of Two Arbitrators.)

And whereas by two appointments, dated respectively the
day of _____, 19____, and the _____ day
of _____, 19____, we, the said F.G. and H.K., were
duly appointed under the Agricultural Holdings (England)
Acts, 1883 to 1900, to act as arbitrators for the purpose of
settling the said differences, in accordance with the provisions
set out in the Second Schedule to the Agricultural Holdings
Act, 1900.

FORM D.

(Recital of Appointment of Umpire.)

(After recital of appointment of two arbitrators, M.N. and P.Q.)

And whereas by an appointment, dated the _____ day of _____, 19____, signed by the said M.N. and P.Q. [or sealed by the Board of Agriculture, *as the case may be*], I, the said F.G., was duly appointed under the said Acts to act as umpire in the said arbitration.

Omit if there
has been no
such extension.

[And whereas the said M.N. and P.Q., duly enlarged the
time for making their award to the day of
, 19 .]

And whereas the said M.N. and P.Q. have allowed their
time to expire without making an award [*or, as the case may be,*
have delivered to the said A.B. or C.D. or to me, the said
F.G., a notice in writing stating that they cannot agree].

THE SECOND SCHEDULE TO THE ABOVE RULES.

FORM E.

*(Application for Appointment by Board of Agriculture of a
Single Arbitrator.)*

AGRICULTURAL HOLDINGS (ENGLAND) ACTS, 1883 TO 1900.

TO THE BOARD OF AGRICULTURE.

Insert name (if
any) and
description of
holding.

In the matter of the holding known as
, lately in the occupation of A.B., of
(the quitting tenant).

Whereas the said A.B. claims to be entitled to compensation
in respect of certain improvements made on the above-
mentioned holding.

And whereas C.D., of , the landlord
of the said holding, and the said A.B., have failed to agree
as to the amount and time and mode of payment of such
compensation, and as to the person to act as arbitrator for
the purpose of settling the differences that have so arisen.

And whereas there is not any provision in any agreement between the said A.B. and C.D. relating to the appointment of such arbitrator, and such arbitrator may accordingly be appointed by the Board of Agriculture on the application in writing of either of the parties.

Now I, the said A.B. or C.D., do hereby apply to the Board of Agriculture for the appointment by them of an arbitrator for the purpose of settling the said differences.

(Signature of A.B. or C.D., or his duly authorized agent.)

NOTE.—*Delay in making the appointment will be avoided if the application is signed by or on behalf of both parties.*

FORM E.

(Application for Appointment by Board of Agriculture of
Arbitrator for party failing to appoint.)

AGRICULTURAL HOLDINGS (ENGLAND) ACTS, 1883 to 1900.

TO THE BOARD OF AGRICULTURE.

In the matter of the holding known as _____, lately in the occupation of A.B.,
of _____ (the quitting tenant.)

Insert name
any) and
description of
holding.

Whereas the said A.B. claims to be entitled to compensation in respect of certain improvements made on the above-mentioned holding.

And whereas C.D., of _____, the landlord of the said holding, and the said A.B. have failed to agree as to the amount and time and mode of payment of such compensation.

And whereas by writing, dated the _____, the said parties agreed, in effect, that the differences which have so arisen should be settled by two arbitrators or an umpire.

And whereas the said A.B. or C.D. has, for fourteen days after notice by the said C.D. or A.B. to him to appoint an arbitrator, failed to do so.

And whereas there is not any provision in any agreement between the said A.B. and C.D. relating to the appointment of an arbitrator for or on behalf of the said A.B. or C.D., in case of such default as aforesaid, and such arbitrator may accordingly be appointed by the Board of Agriculture.

Now I, the said A.B. or C.D., do hereby apply to the Board of Agriculture for the appointment by them of an arbitrator for or on behalf of the said C.D. or A.B.

(Signature of A.B. or C.D., or his duly authorized agent.)

FORM G.

(*Application for appointment by Board of Agriculture of Umpire.*)

AGRICULTURAL HOLDINGS (ENGLAND) ACTS, 1883 TO 1900.

TO THE BOARD OF AGRICULTURE.

Insert name (if any) and description of holding.

In the matter of the holding known as _____, lately in the occupation of A.B.,
of _____ (the quitting tenant.)

Whereas the said A.B. claims to be entitled to compensation in respect of certain improvements made on the above-mentioned holding.

And whereas C.D., of _____, the landlord of the said holding, and the said A.B. have failed to agree as to the amount and time and mode of payment of such compensation.

And whereas by writing, dated the _____, the said parties agreed in effect that the differences which have so arisen should be settled by two arbitrators or an umpire.

And whereas M.N., of _____, and P.Q., of _____, having been duly appointed to be the arbitrators for the purpose of settling the said differences, have for seven days after a request in writing in that behalf by the said A.B. or C.D. failed to appoint an umpire.

And whereas there is not any provision in any agreement between the said A.B. and C.D. relating to the appointment of an umpire in case of such default as aforesaid, and such umpire may accordingly be appointed by the Board of Agriculture.

Now I, the said A.B. or C.D., do hereby apply to the Board of Agriculture for the appointment by them of an umpire for the purpose of such arbitration.

(Signature of A.B. or C.D., or his duly authorized agent.)

NOTE.—*Delay in making the appointment will be avoided if the application is signed by or on behalf of both parties.*

FORM H.

(Application to Board of Agriculture for extension of time
of award)

AGRICULTURAL HOLDINGS (ENGLAND) ACTS, 1883 TO 1900.

TO THE BOARD OF AGRICULTURE.

Insert name (if any) and description of holding.

In the matter of an arbitration under the above-mentioned Acts between A.B., of
(*the quitting tenant*), and C.D., of
(*the landlord*), relating to the holding known as _____
_____ lately in the occupation of the said A.B.

Whereas the time for making the Award in the said arbitration will expire [*or expired*] on the _____ day of _____, 19____.

Now I, the undersigned, do hereby apply to the Board of Agriculture to extend the time for making the said Award to the day of , 19 .

[This may be signed by an arbitrator, or by an umpire, where the matter is referred to him, or in any case by either party to the arbitration or his duly authorized agent.]

(NOTE.—All questions which, under the Agricultural Holdings Acts, 1883 to 1906, or under the contract of tenancy, are referred to arbitration, are after the 1st January, 1909, (whether the matter to which the arbitration relates arose before or after that date) to be determined by a single arbitrator in accordance with the provisions set out in Part I. of the Second Schedule to the Agricultural Holdings Act, 1900.

THE COUNTY COURT RULES, 1903.

ORDER XL.

[Order XLA., Nov., 1900.]

THE AGRICULTURAL HOLDINGS (ENGLAND) ACTS, 1883
to 1900, &c.

Appointment or
change of
guardian,
46 & 47 Vict.
c. 61. s. 25.

1. (1.) An application for the appointment or change of a guardian of an infant or person of unsound mind not so found by inquisition for the purposes of the Agricultural Holdings (England) Acts, 1883 to 1900 (in this Order referred to as the said Acts), shall be intituled in the matter of the Acts and of the arbitration or intended arbitration, and shall be made in accordance with the rules for the time being in force as to interlocutory applications.

(2.) Any such application shall be supported by affidavit, and accompanied by a written consent of the proposed guardian to act as such.

Affidavit.
[Conf. Forms
50, 51.]

(3.) An application on behalf of an infant or person of unsound mind for the appointment of a guardian may be made *ex parte*.

Applications
ex parte.

(4.) An application by any other person interested for the appointment of a guardian of an infant or person of unsound mind shall be made to the judge on notice in writing; and such notice, together with a copy of the affidavit in support of the application, shall three clear days at least before the

Applications on
notice. [Conf.
Forms 54, 55,
56.]

day in such notice named for hearing the application be served on the person with whom or under whose care such infant or person of unsound mind is residing, and also, in the case of an infant not residing with or under the care of his father or guardian, on the father or guardian (if any) of such infant: Provided that the registrar may dispense with such last-mentioned service. Service may be effected in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883.

46 & 47 Vict.
c. 61. s. 28.

(5.) An application for the removal or change of a guardian shall be made to the judge on notice in writing, which shall be served on the guardian proposed to be removed or changed, or his solicitor, in accordance with the last preceding paragraph.

Application for
order to state
case. 63 & 64
Vict. c. 50.
Sched. 2, Part 1,
par. 9.
Form 415.

2. (1.) An application to the judge under the said Acts for an order directing an arbitrator to state in the form of a special case for the opinion of the court any question of law arising in the course of the arbitration shall be made in court on notice in writing, which shall be intituled in the matter of the Acts and of the arbitration, and shall state concisely the question of law which the applicant desires to be stated for the opinion of the court, and shall be supported by an affidavit setting forth the facts of the case and the question of law arising thereon.

(2.) The application and affidavit shall be filed with the registrar, and shall be marked by the registrar with a reference number, and all subsequent proceedings shall bear the reference number.

(3.) Copies of the application and affidavit shall be served by the applicant on the parties to the arbitration, and on the arbitrator, or on their respective solicitors (if any), ten clear days at least before the hearing of the application, unless the judge or registrar shall give leave for shorter service, in which

case a copy of the order giving such leave shall be served with the copy of the application. Such service may be effected in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883; and service on any party who does not appear on the hearing of the application shall be proved before an order is made.

46 & 47 Vict. c.
61, s. 28.

(4.) Any affidavit intended to be used by any party in opposition to the application shall be filed and a copy thereof shall be served on the applicant or his solicitor four clear days at least before the hearing of the application, or, if leave has been given for short service of the notice of the application, in such reasonable time before the hearing as the date of service of such notice will allow.

(5.) A deponent to an affidavit shall on notice from the other side served in accordance with paragraph 3 attend the hearing for cross-examination; and witnesses may be orally examined on the hearing of the application in the same manner as on the hearing of an action.

(6.) The order of the judge on the application shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on the arbitrator in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883, and on all other persons affected thereby in accordance with Rule 7 of Order XXIII.

46 & 47 Vict. c.
61, s. 28.

[Rule 7 of Order XXIII. is as follows:—

7. Any judgment or order for the payment of money or costs or both, or any other order, shall, subject to any special order by the court, and subject to the provisions of these rules, be prepared by the registrar and delivered to the bailiff, who shall within twenty-four hours send the same, by post or otherwise to the party on whom service has to be made:

Mode of service
of judgments
and orders.

Provided that it shall not be necessary for the party in whose favour any such judgment or order has been made to prove, previously to his taking proceedings thereon, that it was posted or reached the opposite party. [Rule 5.]]

Statement of
Case. 63 & 64
Vict. c. 60.
Sched. 2,
Part 1, par. 9.

3. (1.) Where an arbitrator under the said Acts states in the form of a special case for the opinion of the court any question of law arising in the course of the arbitration (whether on his own motion or in pursuance of a direction of the court to that effect), such case shall be intituled in the matter of the Acts and of the arbitration, and shall be divided into paragraphs numbered consecutively, and shall state concisely such facts and documents as may be necessary to enable the judge to decide the questions of law raised thereby. Upon the argument of such case the judge and the parties shall be at liberty to refer to the whole contents of such documents, and the judge shall be at liberty to draw from the facts and documents stated in the case any inference, whether of fact or of law, which might have been drawn therefrom if proved at the hearing of an arbitration.

Signing and
filing.

(2.) Such special case shall be signed by the arbitrator, and may be filed by the arbitrator or any of the parties to the arbitration with the registrar, and a copy shall be filed therewith for the use of the judge; and such case shall be marked by the registrar with a reference number (which, where a case is stated in pursuance of a direction of the court to that effect, shall be the same as that on the application for such direction), and all subsequent proceedings shall bear the reference number.

Fixing day for
hearing.

(3.) On a case being filed the registrar shall transmit a copy thereof to the judge, who shall, as soon as conveniently may be, appoint a day and hour for hearing the case, and instruct the registrar to give notice thereof forthwith to the parties. Such day shall be so fixed as to allow such notice

to be given ten clear days at least before the day fixed for the hearing, unless the judge shall, with the consent of all parties, fix an earlier day; and such notices may be served in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883.

Form 416.

46 & 47
Vict. c. 61.
s. 28.

(4.) The registrar shall, on the application and at the cost of any party, furnish him with a copy of the case.

Copies of case.

(5.) On the hearing of the case an order in accordance with the opinion of the judge shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on all parties to the arbitration in accordance with Rule 7 of Order XXIII.; and a signed copy thereof shall be sent in like manner to the arbitrator, for him to proceed in accordance with the opinion of the judge.

Order on
hearing.
Form 417.

(6.) The judge may remit the case to the arbitrator for re-statement or further statement.

Remitting case
for re-
statement.

4. (1.) When application is made to the court under the said Acts for the removal of an arbitrator on the ground of his misconduct, or for an order setting aside an award on the ground of misconduct of the arbitrator, or on the ground that the arbitration or award has been improperly procured, the party making the application shall be called "the applicant"; and all other parties to the arbitration, and the arbitrator, shall be made parties to the application, and shall be called "the respondents."

Application for
removal of
arbitrator, or to
set aside award.
63 & 64
Vict. c. 50.
Sched. 2,
Part 1,
pars. 6, 13.

(2.) Proceedings shall be commenced by filing an application, intituled in the matter of the Acts and of the arbitration, which shall be entered and numbered as a plaint.

Proceedings
how com-
menced.
Form 418.

(3.) Particulars shall be appended or annexed to the application, containing

Particulars and
affidavit.

(a.) A concise statement of the relief or order which the applicant claims, and of the grounds on which the application is made:

- (b.) The full names and addresses of the respondent and of the applicant, and of his solicitor, if the proceedings are commenced through a solicitor :

and the application shall be supported by an affidavit setting forth the circumstances in which and the grounds on which the application is made.

Copies for
judge and
respondents.

(4.) The applicant shall deliver to the registrar with the application, particulars, and affidavit a copy thereof for the judge, and a copy for each respondent to be served ; and where the application is to set aside an award, the applicant shall file a copy of the award for the use of the judge.

Fixing day of
hearing by
registrar.

(5.) On the filing of the application the registrar shall fix the hearing thereof before the judge for any court appointed to be held within twenty-eight days from the date of the application, but the date of hearing shall be so fixed so as to allow the copies of the application, particulars, and affidavit to be served on the respondents at least ten clear days before the date so fixed.

Fixing day and
place of hearing
by judge.

(6.) If there is no such court available, the registrar shall send notice of the application to the judge, who shall, as soon as conveniently may be, appoint a day and place for the hearing of the application. Such day shall be so fixed as to allow the copies of the application, particulars and affidavit to be served on the respondents at least ten clear days before the date so fixed. The place of hearing shall be the place at which the court is held, or, if the judge so orders, any other convenient court of which he is judge.

Notice to
parties.
Forms 419, 420.

(7.) On the day for the hearing of the application being fixed, the registrar shall give or send by post notice in writing to the applicant, stating the place at which and the day and hour on and at which the application will be heard, and shall issue the copies of the application, particulars and affidavit,

under the seal of the court, for service on the respondents, together with notices signed by the registrar himself and under the seal of the court, stating the place at which and the day and hour on and at which the application will be heard, and that if the respondents do not attend in person or by their solicitors such order will be made and proceedings taken as the judge may think just and expedient.

(8.) The copies and notices mentioned in the last preceding paragraph shall be served on each respondent ten clear days at least before the day fixed for the hearing, unless such respondent, or his solicitor on his behalf, agrees to accept shorter service.

Service on respondents.

(9.) Such copies and notices may be served—

By whom service may be effected.

(a.) By a bailiff of a court ;

or, at the request of the applicant or his solicitor,

(b.) By the applicant, or some clerk or servant in his permanent and exclusive employ ; or

(c.) By the applicant's solicitor, or a solicitor acting as agent for such solicitor, or some person in the employ of either of them.

(10.) Service may be effected either in accordance with the rules as to service of default summonses, or by registered post in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883.

Mode of service.

46 & 47
Vict. c. 61.
s. 28.

(11.) Where service is effected otherwise than by a bailiff, a copy of the document served, with the date and mode of service indorsed thereon, shall within three clear days next after the date of service, or such further time as may be allowed by the registrar of the court issuing such document, be delivered or transmitted to such registrar by the applicant or his solicitor. The applicant or his solicitor shall also deliver or transmit to the registrar an affidavit of the service

Where service effected otherwise than by bailiff.

Form 37.

of such document, according to the form in the Appendix, with such variations as the circumstances of the case may require.

Affidavits by respondents.

(12.) Any affidavit intended to be used by any respondent on the hearing of the application shall be filed and a copy thereof shall be served on the applicant or his solicitor four clear days at least before the hearing of the application, or, if short service of the notice of the application has been accepted, in such reasonable time before the hearing as the date of service will allow.

Attendance for cross examination.
46 & 47
Vict. c. 61,
s. 28.

(13.) A deponent to an affidavit shall on notice from the other side served in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883, attend the hearing for cross examination; and witnesses may be orally examined on the hearing of the application in the same manner as on the hearing of an action.

Procedure on application.

(14.) Subject to the special provisions of this rule, the procedure on an application shall be the same as the procedure in an action commenced in the court by plaint and summons in the ordinary way, and determined by the judge without a jury; and the statutory provisions and rules for the time being in force relating to such actions shall, with the necessary modifications, apply to such application accordingly; and in the application of such provisions and rules the application shall be deemed to be a summons with particulars annexed, the day fixed for proceeding with the application shall be deemed to be the return day, and the applicant and respondents shall be deemed to be plaintiff and defendants respectively.

Order.

(15.) The order of the judge on any application shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on all persons affected thereby in accordance with Rule 7 of Order XXIII.;

and such order shall be enforceable in the same manner as a judgment or order of the court.

(16.) Where the hearing is to take place at another court, the registrar of the court in which the proceeding is pending shall forthwith send notice to the registrar of such other court that the judge has ordered the hearing to take place there; and he shall, in sufficient time before the hearing, transmit the papers to the registrar of the court at which the hearing is to take place, who shall act at the hearing for such first-mentioned registrar, and shall, after the hearing, return the papers to him, with a minute of the order made; and such order shall be settled, signed, sealed, filed, served and proceeded on in the court in which the proceeding is pending, in like manner as if the hearing had taken place there.

Where hearing is to take place in another court.

5.—(1.) An application to the registrar to tax the costs of and incidental to an arbitration and award under the said Acts shall be made in writing, and shall state on whose behalf the application is made.

Application for taxation of costs of arbitration. 63 & 64 Vict. c. 50. Sched. 2, Part 1, par. 14. [Conf. Form 423.]

(2.) On receipt of such application the registrar shall fix a place and time for proceeding with such taxation, and shall give or send by post notice in writing to the applicant and to the parties whose costs are to be taxed, signed by the registrar himself and under the seal of the court, stating the place, day and hour at and on which the taxation will be proceeded with, and requiring the parties to attend and produce documents and be examined, and warning them that if they do not attend in person or by their solicitors such order will be made and proceedings taken as to the registrar shall seem fit. Such notices shall be given or sent four clear days at least before the day fixed for the taxation.

Notice of time and place for taxation. [Conf. Form 424.]

(3.) On the completion of the taxation, or, in the case of review by the judge, after such review, the registrar shall give or send by post to each party a certificate of the result of the

Certificate of taxation.

taxation, stating the amount at which the costs have been allowed.

Review of
taxation by
judge.
63 & 64 Vict.
c. 50. Sched. 2,
Part 1, par. 14.

6. An application to the judge to review any taxation by the registrar shall be made on notice in writing in accordance with the rules for the time being in force as to interlocutory applications.

Application for
recovery of
money awarded
to be paid for
compensation,
&c.
46 & 47 Vict.
c. 61. s. 24;
50 & 51 Vict.
c. 26. s. 17;
63 & 64 Vict.
c. 50. s. 2 (3).
Form 421.

7. (1.) An application to the judge under the said Acts, or the Allotments and Cottage Gardens Compensation for Crops Act, 1887, for an order that money awarded to be paid for compensation, costs, or otherwise, shall be recoverable as money ordered by a county court under its ordinary jurisdiction to be paid is recoverable, shall be made in court on notice in writing, which shall be intituled in the matter of the Acts and of the arbitration; and on filing the application the applicant shall produce to the registrar the original award (or a duplicate thereof) and shall file a copy thereof, together with an affidavit intituled as above, verifying both the original and the copy award, and the amount remaining due thereunder.

(2.) Where the application is for the recovery of or includes the recovery of any money awarded to be paid for costs, the affidavit shall state the amount at which such costs have been agreed upon or allowed on taxation, and that a demand for payment of such amount, with, in the case of taxation, a copy of the certificate of the result of the taxation, has been served on the party against whom the application is made fourteen days at least before the date of the application. Service of such demand may be effected in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883.

(3.) The application shall not be numbered as a plaint, but shall be marked by the registrar with a reference number as a commencement of proceedings, and all subsequent proceedings shall bear the reference number.

(4.) A copy of the application and affidavit shall be served on the party against whom the application is made, and proof of such service shall be made, in accordance with paragraph 3 of Rule 2 of this Order; and the provisions of paragraphs 4 and 5 of the last-mentioned rule shall apply to proceedings on an application under this rule.

(5.) The order of the judge on the application shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on all persons affected thereby in accordance with Rule 7 of Order XXIII.; and such order shall be enforceable in the same manner as a judgment or order of the court. Form 422.

8. Proceedings for the recovery of money agreed to be paid for compensation, costs, or otherwise, under the said Acts, or the Allotment and Cottage Gardens Compensation for Crops Act, 1887, or for the settlement of a dispute under section forty-six of the Agricultural Holdings (England) Act, 1889, shall be by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed in any such action, stating concisely the nature of the claim or dispute, and the relief or order which the plaintiff claims.

Proceedings for recovery of money agreed to be paid under 46 & 47 Vict. c. 61. s. 24; 50 & 51 Vict. c. 26. s. 17; 63 & 64 Vict. c. 50. s. 2 (3) or for settlement of disputes under 46 & 47 Vict. c. 61. s. 46.

FORMS.

37. [21.]

AFFIDAVIT OF SERVICE OF DEFAULT SUMMONS.

Order V.
Rule 18 (9).
Order VII.,
Rule 84.
Order XL.,
Rule 4 (11).
Order L.
Rule 11 (10).

I, *A.B.* of

[*or G.H.*, a clerk [*or servant*] in the permanent and
exclusive employ of]

[*or L.M.*, of _____, the
solicitor for]

[*or R.S.*, of _____, solicitor,
agent for *L.M.* of _____, the
solicitor for]

[*or X.Y.*, a clerk in the employ of [*R.S.* of
solicitor, agent for] *L.M.* of _____, solicitor
for]

the above-named Plaintiff make oath and say :

That I [am a clerk [*or servant*] in the permanent and
exclusive employ of]

[*or am a clerk in the employ of* [*R.S.* of
solicitor, agent for] *L.M.*, of _____, solicitor
for] the above-named Plaintiff, and that I am over
sixteen years of age.

That I did on the _____ day of _____
19 _____, duly serve *E.F.*, _____ the above-named
Defendant [*or one of the above-named Defendants*] with a
summons, a true copy whereof is hereunto annexed, marked
“A,” [*add, if so, with copy of affidavit annexed,*] by delivering
the same personally to the said Defendant at [*here insert*
place where service was made].

(*Indorse the copy summons or other process thus:—This paper,*
marked “A,” is the paper referred to in the annexed affidavit.)

50. [64A., May, 1899].

AFFIDAVIT ON APPLICATION ON BEHALF OF INFANT OR PERSON
OF UNSOUND MIND FOR APPOINTMENT OF GUARDIAN AD LITEM.

[*Not to be printed.*]

I, _____, make oath and
say as follows :—

1. The summons in this action [*or matter*] was served Order VII.,
Rule 50 (1).
on the defendant *C.D.* on the _____ day
of _____ 19 ____.

2. The defendant is an infant [*or a person of unsound
mind not so found by inquisition*].

3. *E.F.*, _____ of _____, is a
fit and proper person to act as guardian *ad litem* of the above-
named defendant, and has no interest in the matters in
question in this action [*or matter*] adverse to that of the
defendant, and the consent of the said *E.F.*
to act as such guardian is hereto annexed.

Sworn, &c.

FORM OF CONSENT TO BE ANNEXED TO AFFIDAVIT.

I, *E.F.* _____ of _____, consent to act
as guardian *ad litem* of *C.D.* _____, an infant [*or a
person of unsound mind not so found by inquisition*], a
defendant in this action [*or matter*], [and I authorise Mr.
_____ to defend this action [*or matter*]].

Signature of Guardian.

51. [64B., May, 1899].

ORDER APPOINTING GUARDIAN AD LITEM.

Order VII.,
Rule 50 (1)

On the application of _____, and on
reading the affidavit of _____, filed on
the _____ day of _____, and the consent
thereto annexed,

It is ordered that *E.F.*, _____ of
be appointed to act as guardian *ad litem* of the defendant
C.D. _____ an infant [or a person of
unsound mind not so found by inquisition].

Dated this _____ day of _____ 19 .
Registrar.

54. [64E., May, 1899].

APPLICATION BY PLAINTIFF FOR APPOINTMENT OF GUARDIAN
AD LITEM TO DEFENDANT WHO IS AN INFANT OR A PERSON OF
UN SOUND MIND.[*Not to be printed.*]Order VII.,
Rule 50 (5).

Take notice, that I intend to apply to the Judge at
_____ on _____ the _____ day of _____
at the hour of _____ in the
noon, for an order appointing *G.H.*, _____ of
or some other proper person, guardian *ad litem* of the
defendant *C.D.*, _____ who is an infant [or a
person of unsound mind not so found by inquisition] and that
I shall apply, if necessary, for the postponement of the trial.

And further take notice, that an affidavit of
filed this day (a copy of which accompanies this notice) will
be read in support of such application.

Dated this _____ day of _____ 19 .
Plaintiff,
[or Solicitor for the Plaintiff].

To the defendant *C.D.*,
and to _____ the father
[or guardian] of the said *C.D.*,
and to the Registrar of the Court.

55. [64F., May, 1899.]

AFFIDAVIT IN SUPPORT OF APPLICATION BY PLAINTIFF FOR
APPOINTMENT OF GUARDIAN AD LITEM TO DEFENDANT.

[Not to be printed.]

I, _____, of _____, make OATH AND SAY AS FOLLOWS :—

ORDER VII.,
Rule 50 (5).

1. I am informed by the Registrar that the summons in this action [or matter] was on the _____ day of _____ served on the defendant C.D. _____, who is an infant [or a person of unsound mind not so found by inquisition], and that no application has been made to the Court on behalf of the said defendant for the appointment of a guardian *ad litem*.

2. G.H., _____ of _____, is a fit and proper person to act as guardian *ad litem* of the above-named defendant, and has no interest in the matters in question in this action [or matter] adverse to that of the said defendant.

3. The consent of the said G.H. _____ to act as such guardian is hereto annexed.

Sworn &c.

FORM OF CONSENT TO BE ANNEXED TO AFFIDAVIT.

I, G.H., _____ of _____, consent to act as guardian *ad litem* of C.D., _____ an infant [or a person of unsound mind not so found by inquisition], a defendant in this action [or matter], [and I authorise Mr. _____ to defend this action [or matter]].

Signature of Guardian.

56. [64G., May, 1899.]

ORDER APPOINTING GUARDIAN AD LITEM ON APPLICATION
OF PLAINTIFF.ORDER VII.,
Rule 50 (6).

Upon the application of the plaintiff for the appointment of *G.H.*, of _____, or some other proper person, guardian *ad litem* of the defendant *C.D.*, who is an infant [*or a person of unsound mind not so found by inquisition*], and upon reading the affidavit of _____ filed on the _____ day of _____, and the consent thereto annexed,

And upon hearing Mr. _____, on behalf of the said defendant,

I do order that *G.H.*, of _____, be appointed to act as guardian *ad litem* of the said defendant.
[*or if the person proposed by the plaintiff is not appointed,*

And it appearing to me that the said *G.H.*, is not a proper person to be appointed such guardian, and that *J.L.*, of _____, is a proper person to be appointed such guardian, and is willing to act as such guardian,

I do order that the said *J.L.*, be appointed to act as guardian *ad litem* of the said defendant.]
[*or, in default of any other person being willing to act,*

And it appearing to me that the said *G.H.*, is not a proper person to be appointed such guardian, and that there is no other proper person willing to act as such guardian,

I do order that the Registrar of this Court be appointed to act as guardian *ad litem* of the said defendant.]

[And I do further order that the hearing of this action [*or matter*] be postponed till _____ the _____ day of _____, at _____ o'clock in the _____ noon.]

Dated this _____ day of _____ 19 ____ Judge.

these words a copy whereof is served herewith] will be read in support of the application.

Dated this day of 19 .

(Signed)

Applicant.

[or Applicant's Solicitor.]

To the Registrar of the Court
and to [*the other parties to the arbitration*
and the arbitrator, naming them.]

416. [311c., Nov., 1900.]

Order XL.,
Rule 3 (3)

NOTICE OF DAY ON WHICH CASE WILL BE HEARD.

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*]

In the County Court of holden at .
[*Heading as in Special Case.*]

Take notice, that the Judge of this Court will hear the special case stated by Mr. the arbitrator appointed in the above-mentioned matter, at a court to be holden at on the day of 19 , at the hour of in the noon; and that if you do not attend in person or by your solicitor at the time and place above-mentioned, such order will be made and proceedings taken as the Judge may think just.

You may obtain a copy of the case upon application at my office, and upon prepayment of the costs of such copy.

Dated this day of 19 .

Registrar.

To
[*the parties to the arbitration.*]

417. [311D., Nov. 1900.]

ORDER ON HEARING OF CASE.

Order XL.
Rule 3 (5)

The Agricultural Holdings (England) Acts, 1883 to 1900.

*(Not to be printed.)**[Heading as in Special Case.]*

The special case stated by Mr.

the arbitrator appointed in the above-mentioned matter *[if stated pursuant to an order of the Judge, add in pursuance of an order of the Judge made in the above-mentioned matter on the day of 19 , coming on for hearing this day :*

Now upon reading the said case, and upon hearing the above-mentioned *A.B.* *[or Mr. ,*

solicitor *[or of counsel]* for the above-named *A.B.* *]*
and the above-named *C.D.*

[or Mr. , solicitor, [or of counsel for the above-named C.D.] [or if either party

does not appear, no one appearing for the above-named A.B. or C.D.], and upon

debate of the matter, the Judge of this Court doth declare his opinion on the question of law stated for the opinion of the Court as follows:—

[State opinion.]

And it is ordered that a copy of this order be sent by the registrar to the said Mr. , for him to proceed in accordance with the opinion so declared as aforesaid.

[Add directions as to costs, if any.]

Dated this day of 19 .
Registrar.

To

*the parties to the arbitration
and the arbitrator.*

418. [311E., Nov., 1900.]

Order XL.
Rule (24).

APPLICATION FOR REMOVAL OF ARBITRATOR OR TO SET ASIDE
AWARD.

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*]

In the County Court of holden at
No. of Plaint.

In the matter of the Agricultural Holdings (England)
Acts, 1883 to 1900,
and

In the matter of an Arbitration between

A.B.,
of &c.,

and

C.D.,
of &c.,

Tenant,

Landlord.

Application is hereby made on behalf of the above-named

(1) for the removal of Mr. _____, the arbitrator appointed in the above-mentioned arbitration, on the ground of his misconduct.

Particulars are hereto appended [*or annexed*].

[or (2) to set aside the award made by Mr. the arbitrator appointed in the above-mentioned arbitration, on the _____ day of _____, on the ground of the misconduct of the said Mr. _____ [or on the ground that the said arbitration [or award] was improperly procured].]

Particulars are hereto appended [*or annexed*].

An affidavit of _____ in support of the
application is filed herewith.

Application is hereby made to the Court to fix a day for
the hearing of the said application.

The names and addresses of the applicant and his solicitor
are :—

Of the applicant

Of his solicitor

The names and addresses of the respondents to be served
with this application are

Dated this _____ day of _____ 19 .

(Signed)

Applicant

[or Applicant's Solicitor].

419. [311F., Nov., 1900.]

NOTICE TO APPLICANT OF DAY ON WHICH APPLICATION WILL
BE HEARD.

Order XL.,
Rule 4 (7).

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*]

[*Heading as in Application.*]

Take notice, that the Judge of this Court will hear the
application in this matter at [*state place of hearing*] on
the _____ day of _____ 19 ,
at the hour of _____ in the _____ noon.

Dated this _____ day of _____ 19 .

Registrar.

To
of

420. [311g., Nov. 1900.]

Order XL.,
Rule 4 (7)NOTICE TO RESPONDENTS OF DAY ON WHICH APPLICATION WILL
BE HEARD.

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*][*Heading as in application.*]

Take notice, that the Judge of this Court will hear the application a sealed copy of which, with the particulars thereunto appended [*or annexed*], and a sealed copy of an affidavit filed in support thereof, is served herewith at [*state place of hearing*] on the day of 19 , at the hour of in the noon ; and that if you do not attend either in person or by your solicitor at the time and place above-mentioned, such order will be made and proceedings taken as the Judge may think just and expedient.

Dated this day of 19 .
Registrar,

To
of
[*naming all the respondents.*]

421. [312b Nov., 1900.]

Order XL.,
Rule 7 (1)APPLICATION FOR ORDER FOR RECOVERY OF MONEY AWARDED
TO BE PAID.[*Not to be printed.*]

The Agricultural Holdings (England) Acts, 1883 to 1900.

The Allotments and Cottage Gardens Compensation for
Crops Act, 1887.

substitute for the words a copy whereof is served herewith] will be read in support of the application.

Dated this day of 19 .

(Signed)

Applicant,

[or Applicant's Solicitor.]

To the Registrar of the Court,
and to (*naming the party against whom
the application is made.*)

422. [312o., Nov., 1900.]

Order XL.,
Rule 7 (5).

ORDER FOR RECOVERY OF MONEY AWARDED TO BE PAID.

[*Not to be printed.*]

The Agricultural Holdings (England) Acts, 1883 to 1900.
The Allotments and Cottage Gardens Compensation for
Crops Act, 1887.

[*Title as in Application.*]

Upon the application of , and upon
reading an award made in the above-mentioned matter on the
 day of 19 , and an
affidavit of sworn on the day
of 19 , and filed on the day of
19 , and upon hearing [*the opposite party*]
[*or if the opposite party does not appear and no one appearing
for [the opposite party] though proof has been made of his
having been duly served with notice of this application*];

It is ordered by the Judge of this Court that the above-
named *A.B.* do recover from the above-

named *C.D.* the sum of £ ,
being the total amount [*or* the balance of the total amount]
of (1) a sum of £ which by the said award was
awarded to be paid by the above-named *C.D.*
to the above-named *A.B.* , and of (2) a
further sum of £ for costs which by the said
award were awarded to be paid by the said *C.D.*
to the said *A.B.* , and which costs were
subsequently agreed upon [*or* allowed on taxation] at the sum
of £ , and which said first-mentioned sum of
£ remains unpaid together with the sum of
£ for the costs of this application ; and that in
default of payment of the said sums of £ and
£ by the said *C.D.* to the
said *A.B.* within days from
the date of this order, the said sums or so much thereof as
shall remain unpaid shall be recoverable as money ordered
by this Court under its ordinary jurisdiction to be paid is
recoverable.

Dated this day of 19 .
Registrar.

424. [353, April, 1895.]

NOTICE OF PLACE AND TIME FIXED FOR TAXATION.

Order XLIII.
Rule 2.

[Not to be printed.]

[Heading as in Form 423.]

Application having been made to the Court on behalf of _____ to tax the account of _____, the Returning Officer at the above-mentioned election, of the charges claimed by him in respect of such election, and to fix a place and time for such taxation:

STATUTORY RULES AND ORDERS, 1900.

No. $\frac{891.}{L. 24.}$

LANDLORD AND TENANT, ENGLAND.
AGRICULTURAL HOLDINGS ACTS.

ORDER OF THE LORD CHANCELLOR, DATED NOVEMBER 27,
1900, AS TO COSTS.

I, the Right Honourable Hardinge Stanley, Earl of Halsbury, Lord High Chancellor of Great Britain, do, by virtue of the powers vested in me by the twenty-seventh section of the Agricultural Holdings (England) Act, 1883, hereby prescribe the following scales of costs for proceedings in the county court under the Agricultural Holdings (England) Acts, 1883 to 1900, and of costs to be taxed by registrars of county courts under the said Acts, (that is to say) :

1. Costs of proceedings in the county court under the said Acts shall be taxed according to such one of the scales of costs applicable to actions in the county court as the judge shall direct, and in default of such direction they shall be taxed under column B of such scales.

2. Costs of and incidental to an arbitration and award awarded by an arbitrator under the said Acts shall be taxed according to such one of the scales of costs applicable to actions in the county court as the arbitrator shall direct, and in default of such directions they shall be taxed under column B of such scales.

Dated this 27th day of November, 1900.

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